(6) No. 98-1480

Supreme Court, U.S.
FILED
JUL 22 1999
CLERK

In The

Supreme Court of the United States

ROBERT A. BECK, II,

Petitioner,

vs.

RONALD M. PRUPIS, et al.,

Respondents.

On Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

JOINT APPENDIX
VOLUME I, PAGES 1 TO 233

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Petition For Certiorari Filed March 15, 1999
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UNITED STATES DISTRICT DOCKET
DISTRICT OF NEW JERSEY
CIVIL DOCKET FOR CASE NO. 89-3389 xx AJL

DATE	NR	89-3389(XX) AJL, JR. PROCEEDINGS
8-14-89	1	Complaint with *jury demand* filed 8-10-89.
8-14-89	2	*Amended Complaint* with *jury Demand* filed 8-11-89.
8-14-89	–	Summons issued as to defts. Southeastern Insurance Group, Inc., Robert A. Beck, II, Byron L. Sparber, Esq., Lynn K. DAY, Harry Olstein, Ernest J. Sabato, Ronald M. Prupis, Linda F. Burton, Carl B. Shible (35 days) (Picked up by Messenger.)
8-14-89		Summons issued as to all other defendants (20 days) (Picked up by Messenger)
8-14-89	3	Notice of allocation & assignment filed. (Newark-Lechner)
12-1-89	4	Minutes of Proceedings of 11-29-89 fld. (LECHNER) STATUS CONF. Dispositive motions coming. To be fld. 25 business days before ret. date.
12-14-89	5	Consent Order extending time of deft. Deloitte, Haskins & Sells to answer until 1-9-90 fld. (LECHNER)n/m
12-21-89	6	Agreed Motion of deft. Robert A. Beck, II for extension of time to respond to pltfs' Amended Complt. ret. 1-22-90 w/Certificate of Service fld. 12-20-89. (No Brief)

12-26-89	7	Order granting deft. Robert A. Beck, II extension of time to answer until 1-9-90 fld. 12-22-89. (LECHNER)n/m
12-27-89	8	Consent Order extending time of deft. Paul Petigrow to answer until 1-9-90 fld. 12-22-89. (LECHNER)n/m
12-27-89	9	Consent Order extending time of deft. Neil Prupis to answer until 1-9-89 fld. 12-22-89. (LECHNER)n/m
12-27-89	10	Consent Order extending time of deft. William Lipkind to answer until 1-9-90 fld. 12-22-89. (LECHNER)n/m
12-27-89	11	Consent Order extending time of deft. Stephen Lampf to answer until 1-9-90 fld. 12-22-89. (LECHNER)n/m
12-27-89	12	Consent Order extending time of deft. Lampf, Lipkind, Prupis & Petigow [sic] to answer until 1-9-90 fld. 12-22-89. (LECHNER)n/m
1-11-90	13	*Answer* of deft. Joseph S. Littenberg w/*Counterclaim, Crossclaim & 3rd Party Complt.* w/*JURY* demand fld. 1-10-90.
1-22-90	14	Suggestion of Chapter 7 of deft. Southeastern Insurance Group, Inc. fld 1-17-90.
1-22-90	15	*Transcript* of Proceedings of 11-29-89 fld. 1-18-90.
2-8-90	16	Consent Order extending time of defts. Deloitte, Haskins & Sells to answer, etc. until 2-21-90 fld. 2-7-90. (LECHNER)n/m
5-15-90	17	Cert. of svc. of deft. Lampf Lipkind Prupis & Petigrow's memorandum in opposition to pltfs' motion for leave to amend fld. 5-14-90.

5-22-90	18	Notice of motion of pltfs. to amend complt. to add additional pltfs. ret. 6-25-90; Cert. of Theodore L. Abeles and proof of svc. fld. 5-17-90. (letter brief sub.)
5-22-90	19	Order directing consideration on expedited bases [sic] of motion to amend amended complt. is denied and permitting pltfs. to file motion to amend complt. ret. 6-11-90 fld. 5-22-90. (Hedges)N/M
5-22-90	20	Order re length of pltfs' brief in response to motions to dismiss and/or summary judgment etc. fld. 5-21-90. (Hedges)N/M
5-29-90	21	Order admitting Gerald J. Houlihan, Esq., Jay Starkman, Esq., Patricia del Pino, Esq. and Miguel M. de la o, Esq. to appear pro vice on behalf of dft., Robert A. Beck, II, fld. 5-25-90. (Hedges) n/m
5-29-90	22	Certification of Miguel M. de la O for admission pro hac vice, fld. 5-25-90.
5-29-90	23	Certification of Gerald J. Houlihan for admission pro vice, fld. 5-25-90.
5-29-90	24	Certification of Jay Starkman for admission pro hac vice, fld. 5-25-90.
6-6-90	25	Crossclaim of deft. Robert A. Beck, II agsto co-defts. Ronald M. Prupis, Leonard Bellezza, William D. Lipkind, Neil L. Prupis, Ernest J. Sabato, William Paulus, Jr. Harry Olstein, Frederick C. Mezey, Byron L. Sparber and Joseph Littenberg and *Third Party Complt.* and *jury* demand fld. 5-31-90.
6-7-90	–	Summons on 3rd pty complt. as to 3rd pty defts. Robert Pershes and Firemark

		Consultants, Inc. issued. (35 days) (mailed to attorney)
6-14-90	26	Reply certification of William D. Lipkind fld. 6-8-90.
6-14-90	27	Notice of motion of deft. Deloittee [sic] Haskins & Sellsto [sic] dismiss first, second, third, fifth and sixth counts for failure to state a claim and cert. of svc. fld. 6-8-90. (Date to be set)
6-14-90	28	Notice of motion of deft. Lampf, Lipkind, Prupis & Petigrow for summary judgment fld. 6-8-90. (date to be set)
6-14-90	29	Certification of William D. Lipkind fld. 6-8-90.
6-14-90	30	Notice of motion of deft. Neil L. Prupis for summary judgment and Certification of Neil L. Prupis fld. 6-8-90. (date to be set)
6-14-90	31	Notice of motion of deft. William D. Lipkind for summary judgment and Certification of William D. Lipkind fld. 6-8-90. (date to be set)
6-14-90	32	Notice of motion of deft. Stephen E. Lampf for summary judgment and Certification of Stephen E. Lampf and cert. of svc. fld. 6-8-90. (date to be set)
6-14-90	33	Notice of motion of deft. Paul M. Petigrow for summary judgment and Certification of Paul Petigrow fld. 6-8-90 and cert. of svc. fld. 6-8-90. (date to be set)
6-14-90	34	Cert. of svc. of supplemental letter brief in opposition to pltfs'. motion for leave to amend complt. fld. 6-8-90.

6-26-90	35	Order directing amended class action and derivative complt. may be amended to include specified pltfs w/in 7 days etc. fld. 6-21-90. (Hedges)N/M
6-26-90	36	Cert. of svc. of surreply brief of deft. Lampf, Lipkind, Prupis and Petigrow fld. 6-21-90.
7-9-90	37	*Second Amended complt.* and *jury* demand fld. 6-26-90.
7-9-90	38	*Answer* of defts. Joseph S. Littenberg to crossclaim of deft. Robert A. Beck, II fld. 6-27-90.
7-9-90	39	Notice of motion of deft. Deolitte [sic] Haskins & Sells to dismiss second amended complt. ret. 8-3-90 and cert. of svc. fld. 6-29-90. (brief sub.)
7-9-90	40	Minutes of Proceedings of 6-25-90 fld. 7-3-90. (Hedges) Ct. Reporter None At call for hrg. on pltf's motion to amend complt. Court indicated motion to be decided pur. to RULE 78.
7-11-90	41	Order permitting all parties to examine certain documents; staying motion of pltfs. to disqualify Budd Larner Gross Rosenbaum Greenberg & Sade; staying pltfs' notice of deposition of Michael M. Rosenbaum and Jeffrey Bronster pending further order of court and denying application for amended order etc. fld. 7-2-90. (Hedges)N/M
7-11-90	42	Notice of motion of deft. Lampf, Lipkind, Prupis and Petigrow for summary judgment and dismissal of second amended

		complt. ret. 8-3-90 and cert. of svc. fld. 7-3-90.
7-11-90	43	Notice of motion of deft. Stephen E. Lampf for summary judgment and cert. of svc. fld. 7-2-90. (RET. 8-3-90)
7-11-90	44	Notice of motion of deft. William D. Lipkind for summary judgment and dismissing second amended complt. fld. 7-2-90. (RET. 8-3-90)
7-11-90	45	Notice of motion of deft. Neil R. Prupis for summary judgment and dismissing second amended complt. fld. 7-2-90. (RET. 8-3-90)
7-11-90	46	Notice of motion of deft. Paul M. Petigrow for summary judgment and dismissing second amended complt. fld. 7-2-90. (RET. 8-3-90)
7-11-90	47	Application and clerk's order extending time of defts. William Lipkind and Neil Prupis to answer crossclaims of co-deft. Robert Beck fld. N/M
7-13-90	48	*Answer* of deft. Neil U. [sic] Prupis to crossclaim so [sic] deft. Robert A. Beck fld 7-10-90.
7-13-90	49	*Answer* of deft. William D. Lipkind, fld 7-10-90.
7-16-90	50	Original 3rd pty summons returned w/affidavit of svc. of 3rd pty summons & complt. or deft. Robert Pershes on 6-28-90 fld. 6-12-90.
7-17-90	51	Copy of notice of motion of deft. Carl B. Shible to dismiss amended complt. fld. 7-5-90. (ret. 8-3-90)

7-17-90	52	Notice of motion and motion for withdrawal of counsel for deft. Car. [sic] B. Shible and cert. of mailing fld. 7-5-90.
7-20-90	53	Notice of motion of dfts., Bellezza, Sabato, Olstein & Paulus for an extension of time to respond to crossclaim of dft., Robert A. Beck etc. ret. 7-30-90 (on papers), fld. 7-18-90.
7-20-90	54	Affidavit of Claudia A. Costa Esq., fld. 7-18-90.
7-20-90	55	Affidavit of svc of copy of notice of motion and supporting affidavit etc., fld. 7-18-90.
8-2-90	56	Order extending time of defts. Bellezza, Sabato, Olstein and Paulus to respond to crossclaim of deft. Robert A. Beck 10 days etc. fld. 7-31-90. (Hedges)N/M
8-3-90	57	Notice of dft/3rd-pty pltf., Robert A. Beck II to take deposition of Donna H. Kane and Paul Price etc. w/cert. of svc thereto, fld.
8-9-90	58	*Transcript* of hrg. held 8-3-90 fld. 8-8-90
8-9-90	59	Application and clerk's order extending time of 3rd pty deft. Robert E. Pershes to answer 3rd pty complt. to 8-17-90 fld. N/M
8-10-90	60	Proof of process svc of third-party complt. on 3rd pty dft., Firemark Consultants, Inc. on 6-27-90, fld. 8/8/90.
8/10/89 [sic]	61	Minutes of proceedings of 8-3-90, fld. 8-3-90. (Lechner) (CR-J. Houston) Hrg. on motion of dft., Deolitte [sic] Haskins & Sells to dismiss 2nd amended

complt. Decision Reserved.
Hrg. on motion of dft., Lampf, Lipking [sic], Prupis & Petigrow for Summary judgment and dismiss 2nd amended complt. Decision Reserved.
Hrg. on motion of dft., Stephen E. Lampf for summary judgment and dism. of 2nd amended complt. Decision Reserved.
Hrg. on motion of dft., William D. Lipkind for summary judgment and dismissal of 2nd amended complt. Decision Reserved.
Hrg. on motion of dft., Neil R. Prupis for summary judgment and dismissal of 2nd amended complt. Decision Reserved.
Hrg. on motion of dft., Paul Petigrow for summary judgment and dismissal of 2nd amended complt. Decision Reserved.
Hrg. on motion of dfts., Bellezza, Sabato, Olstein & Paulus for an extension of time to respond to crossclaim of dft., Robert A. Beck etc. Decision Reserved.

8-15-90 62 Minutes of proceedings of 7-30-90, fld. (Hedges) N/M Proclamation made on deft's motion for an extension of time to respond to crossclaim of deft. Robert A. Beck, etc. Ordered Motion granted.

8-16-90 63 MINUTES OF PROCEEDINGS OF 7-23-90, fld. 7-23-90. (Hedges) (CR. none) At call for hrg. on deft's mot. to ext. time to respond to crossclaim of deft. Robert A. Beck, MOT. TO BE DECIDED PUR. TO RULE 78.

8-17-90 64 Order extending time for dfts., Bellezza, Sabato, Olstein and Paulus to respond to

crossclaim of dft., Robert A. Beck for 10 days etc., fld. 8-16-90. (Hedges) n/m

8-21-90 65 Copy of 3rd pty summons returned fld. 8-6-90.

8-22-90 66 Letter OPINION fld. 8-21-90. (Lechner)

8-22-90 67 Order dismisssing [sic] and granting certain counts of second amended complt.; directing pltf. to file amended pleading and denying remaining aspects of motions to dismiss and/or summary judgment of defts. etc. fld. 8-21-90. (Lechner)N/M

9-10-90 68 Consent order extending time of 3rd pty deft. Firemark to answer 3rd pty complt. to 9-3-90 fld. 9-7-90. (Hedges)N/M

9-12-90 69 Minutes of Proceedings of 9-6-90 fld. 9-6-90. (Lechner) Ct. Reporter Joanne Houston
Status Conference re motions to dismiss crossclaims.
SC to be set for 9-13 or 14. Counsel to call back.

9-13-90 70 Notice of deft. 3rd pty pltf. Robert A. Beck of svc. of amended complt. on 3rd pty deft. Robert Pershes fld. 9-11-90.

9-18-90 71 *Order dismissing crossclaim of deft. Joseph S. Littenberg agst. deft. Robert A. Beck, II* w/out prejudice fld. 9-12-90. (Lechner)N/M

9-20-90 72 Minutes of Proceedings of 9-17-90 fld. 9-17-90. (Lechner) Ct. Reporter Joanne Houston

		Status Conference – All ans to 3rd amended complt. all cross motions and any 3rd pty complts. to be fld. by 9-28. All rogs (50) sv 10-2 ans 11-2 Produce or identify documents by 11-2 SC set for 11-9 at 8:30AM
9-25-90	73	Order granting leave for Jeffrey P. Wasserman, Esq. and Litman, Muchnick, Wasserman & Hartman to withdraw as counsel for deft. Carl B. Shible; instructing deft. Carl B. Shible attend settlement conf. on 11-9-90 etc fld. 9-19-90. (Hedges)N/M
9-25-90	74	*Third Amended Complt.* and *jury* demand w/cert. of svc. fld. 9-14-90.
9-28-90	75	DISCOVERY and PROCEDURE ORDER NO. 1 and scheduling status conf. on 11-9-90 etc. fld. 9-26-90. (Lechner)N/M
9-28-90	76	Order re motion of pltf. to disqualify Budd Larner Gross Rosenbaum Greenberg & Sade as counsel for certain defts. fld. 9-26-90. (Hedges)N/M
9-28-90	77	*Answer* of deft. 3rd pty pltf. Joseph S. Littenberg to 3rd amended complt.; *crossclaim* agst. co-defts.; *THIRD PARTY COMPLT.* and *jury* demand fld. 9-20-90.
10-3-90	–	Summons on 3rd pty complt. as to 3rd pty defts. Richard Roe, Inc. and John Doe issued. (20 days) (mailed to attorney)
10-3-90	78	*Answer* of deft. Leonard Bellezza, Harry Olstein, William Paulus, Jr. and Ernest J. Sabato to 3rd amended complt. and crossclaims fld. 10-1-90.

10-3-90	79	*Answer* of deft. William D. Lipkind to 3rd amended complt. fld. 10-2-90.
10-3-90	80	*Answer* of deft. Neil L. Prupis to 3rd amended complt. fld. 10-2-90.
10-3-90	81	Certification of Theodore L. Abeles in support of motion to disqualify law firm for defts. Leonard Bellezza, Ernest J. Sabato, William Paulus, Jr. and Harry Olstein fld.
10-3-90	82	*Transcript* of hrg. held 9-6-90 fld. 9-28-90.
10-3-90	83	*Answer* of deft. 3rd pty. pltf. Frederick C. Mezey to 3rd amended complt.; *answer* to crossclaims; *counterclaim; crosssclaim* [sic] agst. all co-defts.; *jury* demand AND THIRD PARTY COMPLT. w/cert. of svc. attached fld. 9-28-90.
10-10-90	84	Application and clerk's order extending time of deft. William Lipkind and Neil Prupis to answer 3rd amended complt. to 10-5-90. N/M (per Judge Lechner)
10-12-90	85	*Answer* of deft. 3rd pty pltf. Joseph S. Littenberg to crossclaims of defts. Leonard Bellezza, Harry Olstein, William Paulus, Jr. and Ernest j. Sabato fld. 10-4-90.
10-12-90	86	*Answer* of deft. 3rd pty pltf. Joseph S. Littenberg to crossclaims of deft. Frederick C. Mezey fld. 10-10-90.
10-12-90	87	*Answer* of deft. 3rd pty pltf. Joseph S. Littenberg to crossclaims of deft. Neil L. Prupis fld. 10-10-90.
10-12-90	88	*Answer* of defts. Leonard Bellezza, Harry Olstein, William Paulus, Jr. and Ernest J.

Sabato to crossclaims of deft. 3rd pty pltf. Joseph Littenberg fld. 10-10-90.

10-12-90 89 *Answer* of defts. 3rd pty pltf. Joseph S. Littenberg to crossclaims of deft. William D. Lipkind fld. 10-10-90.

10-15-90 90 *Revised answer* of deft. Neil L. Prupis to 3rd amended complt. w/cer of svc. attached fld. 10-12-90.

10-15-90 91 *Revised answer* of deft. William D. Lipkind to 3rd amended complt. fld. 10-12-90.

10-16-90 92 *Transcript* of hearing held 9-17-90 fld. 10-15-90.

10-29-90 93 Affidavit of William D. Lipkind fld. 10-26-90. (brief sub.)

10-29-90 94 Affidavit of Ernest J. Sabato fld. 10-26-90.

10-29-90 95 Affidavit of William Paulus, Jr. fld. 10-26-90.

10-29-90 96 Affidavit of Harry Olstein fld. 10-26-90.

10-29-90 97 Affidavit of Leonard Bellezza fld. 10-26-90.

10-29-90 98 Affidavit of Michael M. Rosenbaum in opposition to pltfs' motion to disqualify firm of Budd Larner, et al fld. 10-26-90.

10-30-90 99 *Stipulation and Order dismissing crossclaims of deft Frederick C. Mezey against co-deft Deloitte Haskins & Sells without costs* fld. 10-24-90 (Lechner) N/M

10-31-90 100 *Stipulation and order dismissing crossclaim of deft. 3rd pty pltf. Joseph Littenberg agst. deft. Deloitte, Haskins & Sells* w/out prejudice and w/out costs fld. 10-22-90. (Lechner) N/M

10-31-90 101 Cert. of svc. of notice of motion to dismiss 3rd pty complt. as to Firemark Consultants, Inc. etc. fld. 10-25-90.

10-31-90 102 Notice of motion of deft. Firemark Consultants, Inc. to dismiss 3rd pty complt. w/prejudice and counsul [sic] fees ret. 11-19-90 and cert. of svc. fld. 10-25-90. (briefs sub.)

10-31-90 103 Notice of motion of defts. Leonard Bellezza, Ernest Sabato, William Paulus, Jr. and Harry Olstein to dismiss crossclaims of Robert A. Beck, II and for sanctions ret. 11-19-90 fld. 10-29-90. (briefs sub.)

10-31-90 104 Affidavit of Claudia A. Costa fld. 10-29-90.

10-31-90 105 Affidavit of Michael M. Rosenbaum fld. 10-29-90.

11-7-90 106 Notice of amended motion of deft. Robert Pershes to dismiss 3rd pty. complt., to stay discovery and counsel fees and cert. of svc. fld. 10-26.90. (brief sub.)

11-8-90 107 Minutes of Proceedings of 11-5-90 fld. 11-5-90. (Lechner) Ct. Reporter
Joanne Houston
Status conference
11-16 amended ans 11-23 ans to rogs
Motions ret. 11-27 @ 9:00AM

11-9-90 108 Substitution of attorney on behalf of deft. 3 pty. pltf. fld. 10-30-90.

11-9-90 109 *Stipulation and order dismissing 3rd pty complt w/*prejudice and w/out costs fld. 10-30-90. (Lechner) N/M

11-13-90	110	Notice of deft. Robert A. Beck to take deposition of Terese Westling fld. 11-8-90.
11-13-90	111	*Transcript* of hrg. held 10-31-90 fld. 11-9-90.
11-16-90	112	*Answer* of deft. William D. Lipkind to crossclaims of deft. Joseph Littenberg fld. 11-14-90.
11-16-90	113	*Answer* of deft. William D. Lipkind to crossclaims of defts. Bellezza, Olstein Paulus & Sabato fld. 11-14-90.
11-16-90	114	*Answer* of deft. William Lipkind to crossclaims of deft. Frederick Mezey fld. 11-14-90.
11-16-90	115	*Answer* of deft. Neil L. Prupis to crossclaims of deft. Joseph Littenberg fld. 11-14-90.
11-16-90	116	*Answer* of deft. Neil L. Prupis to crossclaims of deft. Frederick Mezey fld. 11-14-90.
11-16-90	117	*Answer* of deft. Neil L. Prupis to crossclaims of defts. Bellezza, Olstein Paulus & Sabato fld. 11-14-90.
11-19-90	118	Minutes of Proceedings of 11-13-90 fld. 11-13-90. (Hedges) Ct. Reporter None reported At call for hrg. on motion to disqualify counsel. Court indicated motion to be decied [sic] pur. to Rule 78.
11-20-90	119	*Amended* answer of defts. Leonard Bellezza, Harry Olstein, William Paulus, Jr. and Ernest J. Sabato to third amended complt.; *crossclaim* and *jury* demand fld. 11-16-90.

11-20-90	120	Order admitting Jane W. Moscowitz, Esq. pro hac vice on behalf of deft. Robert A. Beck, II etc. fld. 11-16-90. (Hedges)N/M
11-20-90	121	Application for admission pro hac vice of Jane W. Moscowitz, Esq. on behalf of deft. Robert A. Beck, II fld. 11-16-90.
11-20-90	122	Letter OPINION and ORDER DENYING MOTION OF PLTF. Jules Bagdan to disqualify firm of Budd Larner Gross Rosenbaum Greenberg & Sade from representing defts. Leonard Belleza, Ernest J. Sabato, William Paulus, Jr. and Hary [sic] Olstein etc. fld. 11-15-90. (Hedges)N/M
11-20-90	123	PROCEDURE ORDER NO. 2 (pltf. may move for entry of default agst. Ronald Prupis and scheduling status conf. on 11-27-90 etc.) fld. 11-16-90. (Lechner)N/M
11-27-90	124	Order admitting Jame [sic] W. Moscowitz, Esq. pro hac vice on behalf of deft. Robert A. Beck, II etc fld. 11-21-90. (Hedges)N/M
11-28-90	125	Notice of appearance on behalf of defts. William Lipkind and Neil Prupis fld. 11-27-90.
12-3-90	126	Minutes of Proceedings of 11-26-90 fld. 11-26-90. (Hedges) Ct. Reporter – None Reported At call for hrg. on motion to admit pro hac vice. Court indicated motion to be decided pur. to Rule 78.
12-4-90	127	Notice of motion of pltf. to appeal the Opinion and Order of Mag. Hedges of 11-15-90, denying motion to disqualify

the law firm of Budd, Larner, Gross, Rosenbaum, Greenberg & Sade from acting as counsel for director-officer dfts., Bellezza, Paulus Olstein and Sabato, fld. 11-29-90. (Brief sub.) (No ret. date per Ellen Smith)

12-4-90 128 Certification of Theodore L. Abeles on motion to appeal order of Magistrate Ronald J. Hedges, denying motion to disqualify Budd Larner, Gross, Rosenbaum, Greenberg & Sade, fld. 11-29-90.

12-4-90 129 Certification of Theodore L. Abeles in support of motion to disqualify the law firm of Budd, Larner, Gross, Rosenbaum, Greenberg and Sase [sic] as counsel for dfts. Leonard Bellezza, Ernest J. Sabato, William Paulus, Jr. and Harry Olstein, fld. 11-29-90.

12-4-90 130 Cert. of svc. of copy of substitution of attorney fld. 11-27-90.

12-4-90 131 Order substituting attorney on behalf of deft. Joseph S. Littenberg fld. 11-27-90. (Lechner)N/M

12-4-90 132 Order re depositions noticed by Robert A. Beck, II etc. fld 11-28-90. (Hedges)N/M

12-6-90 133 Notice of motion of pltfs. for order declaring court's order of 8-21-90 a final judgment or in the alternative certify order as an interlocutory decision; Affidavit of Michael M. Rosenbaum and cert. of svc. fld. 12-4-90. (briefs sub.)

12-6-90 134 Certification of Theodore Abeles in support of pltfs' motion to certify order of 8-21-90 as final fld. 12-4-90.

12-10-90 135 *Answer* of deft. Robert A. Beck, II to 3rd amended complt. fld. 12-5-90.

12-12-90 136 Notice of deft. Robert A. Beck, II to take deposition of Donald Bailey fld. 12-3-90.

12-18-90 137 Order directing pur. to Standing Order dated 11-29-90 action is temporarily transferred to Judge Wolin for hrg. and disposition of (3) motions to dismiss, (1) motion to amend 3rd pty complt. and (1) motion to certify Court's 8-21-90 order as final or in the alternative an interlocutory decision fld. 12-14-90. (Debevoise)N/M

12-18-90 138 Order directing pur. to Standing Order dated 11-29-90 action is temporarily transferred to Judge Sarokin for hrg. and disposition of motion to disqualify counsel ret. 1-14-91 fld. 12-14-90. (Debevoise)N/M

12-19-90 139 Notice of motion of deft. Robert A. Beck, II to amend crossclaim and 3rd pty complt. ret. 1-14-91 and cert. of svc. fld. 12-17-90. (letter brief sub.)

12-19-90 140 AMENDED PROCEDURAL ORDER NO. 3 – denying rquest [sic] of Budd Larner to serve further interrogatories on deft. Beck; staying al [sic] depositions pending further order of Court and scheduling next status conf. on 1-28-90 etc. fld. 12-14-90. (Hedges)N/M

12-20-90 141 Order directing pur. to Standing Order dated 11-29-90 action temporarily transferred to a judge is retransferred to Judge Lechner for all purposes and all motions will remain as prev. scheduled fld. 12-17-90. (Debevoise)N/M

12-26-90	142	Affidavit of William D. Lipkind in opposition to motion of dft., Robert Beck to amend crossclaim, fld.
12-26-90	143	Affidavit of Neil L. Prupis of Neil Prupis in opposition to motion of deft., Robert Beck to amend crossclaim, fld.
12-27-90	144	*Answer* of deft Ronald Prupis to 3d Amended Complaint etc. filed 12-18-90.
1-8-91	145	Affidavit of svc. of copy of brief of defts. Bellezza, Sabato, Paulus and Olstein in opposition to pltf's appeal from order of Mag. Hedges fld. 1-3-91.
1-14-91	146	Affidavits of Miguel M. DE La O & Jay Starkman in support of Beck's mot. to amend crossclaim & cert. of service fld. 1-10-91. (brief sub)
1-15-91	147	Minutes of Proceedings of 1-14-91 fld. 1-14-91. (Lechner) Ct. Reporter Joanne Houston Hrg. on appeal from Mag. Hedges ruling that Budd, Larner may remain as counsel. Ordered appeal DENIED w/out prejudice to renew upon inspection of new documents. Hrg. on motion of deft. Robert Beck to amend crossclaims and 3rd pty complt. Ordered motion granted & furhter [sic] interrogatories on amended issues.
1-18-91	148	Order substituting attorney on behalf of deft. Frederick C. Mezey fld. 1-14-91. (Lechner)N/M
1-22-91	149	Notice of motion ot [sic] compel discovery; Affidavit of David J. Novack and Affidavit of Claudia A. Costa fld. 1-18-91.

1-30-91	150	Order denying application of pltf. to disqualify Budd Larner Gross Rosenbaum Greenberg & Sade w/out prejudice etc. fld. 1-28-91. (Lechner)N/M
1-30-91	151	Case Management Order fld. 1-28-91. (Lechner)N/M
1-30-91	152	Minutes of Proceedings of 1-28-91 fld. 1-28-91. (Lechner) Ct. Reporter – Howard Rappaport Hrg. on motion of deft. Robert Pershes & Firemark COnsultants, Inc. to dismiss 3rd pty complt. Decision RESERVED. Hrg. on motion of defts. L. Bellezza, E. Sabato, W. Paulus and H. Olstein to dismiss crossclaim of Robert A. Beck, II and for sanctions. Decision RESERVED. Pltfs. motion to certify for appeal. Decision RESERVED.
2-7-91	153	*Transcript* of hrg. held 1-14-91 fld. 2-6-91.
2-7-91	154	Order directing all parties shall have until 2-18-91 to inspect documents produced fld. 2-1-91. (Hedges)N/M
2-8-91	155	*Transcript* of hearing held 1-28-91 fld.
2-11-91	156	Order denying requests of defts. William D. Lipkind and Neil L. Prupis for costs and directing deft./crosspltf. Robert A. Beck, II may amend crossclaims and 3pty complt. etc. fld. 2-6-91. (Lechner)N/M
2-13-91	157	Notice of motion of pltf. Jules Bagdan to disqualify firm of Budd, Larner, Gross, Rosenbaum, Greenberg & Sade and Jeffrey Bronster; sanctions and costs ret. 3-1-91 and proof of svc. fld. 2-8-91.

2-13-91 158 Certification of Theodore L. Abeles fld. 2-8-91. (Exhibits Volume I and II sub.)

2-15-91 159 Certification of Jeffrey A. Bronster fld. 2-14-91.

3-4-91 160 Certification of Theodore L. Abeles on turnover, sanctions and disqualification motions fld. 3-1-91.

3-4-91 161 Certification of Theodore L. Abeles on turnover and production to counsel for trustee of documents in the possession of Budd Larner Gross Rosenbaum Greenberg & Sade fld. 3-1-91.

3-4-91 162 Order directing Mr. Ron Prupis and Mr. Lynn Day or counsel appear before Mag. Hedges on 3-1-91 etc. fld. 2-26-91. (Hedges)N/M

3-11-91 163 Order directing deft. Robert A. Beck, II copy and produce all documents relating to SIG no later than 3-19-91 etc. fld. 3-7-91. (Hedges)N/M

3-11-91 164 Letter OPINION fld. 3-5-91. (Lechner)

3-11-91 165 Order directing crossclaims agst. Officer defts. are transferred to Southern Dist. of Florida for all purposes, 3rd pty. complt. agst. Pershes is transferred to Southern Dist. of Florida for all purposes and *dismissing 3rd pty. complt. agst. Firemark* w/prejudice fld. 3-5-91. (Lechner)N/M

3-11-91 166 Order directing evidentiary hrg. concerning assertion of attorney-clien [sic] privilege over certain documents by defts. Bellezza, Olstein, Paulus and Sabato shall resume on 4-18-91 etc. fld. 3-7-91. (Hedges)N/M

3-12-91 167 Amended order directing crossclaims agst. Officer defts. are transferred to Southern Dist. of Florida for all purposes, 3rd pty. complt. agst. Pershes is transferred to Southern Dist. of Florida for all purposes, *dismissing 3rd pty. complt. agst. Firemark* w/prejudice and denying motions of Officer defts. Pershes and Firemark for sanctions fld. 3-11-91. (Lechner)N/M

3-13-91 168 Affidavit of Claudia A. Costa fld. 3-12-91.

U.S. District Court
Southern District of Florida (W.Palm Beach)

CIVIL DOCKET FOR CASE #: 91-CV-8121

Proceedings include all events. APPEAL
9:91cv8121 Beck v. Prupis, et al CLOSED

3/22/91	1	ORDER of transfer from USDC District of New Jersey of cross claims and third party complaint with court file and certified copy of docket sheet. (signed by Judge Alfred J. Lechner, Jr. on 03/05/91) CCAP A-7 AEV (js) [Entry date 03/28/91] [Edit date 03/28/91]
3/22/91	–	**Enter initials of Magistrate drawn in flag field. (js) [Entry date 03/28/91]
3/22/91	2	Original file and docket sheet received from District of New Jersey (kw) [Entry date 03/29/91]
6/18/91	3	MOTION by Robert A. Beck II for Hearing, and status conference (kw) [Entry date 06/27/91]
6/24/91	4	NOTICE of Appearance of Bernard S. Mandler for Bryon L. Sparber (Not member of Bar) (jl) [Entry date 06/27/91]
6/24/91	5	NOTICE of Appearance of Bernard S. Mandler for Joseph S. Littenberg (Not a member of Bar) (jl) [Entry date 06/27/91]
6/26/91	6	NOTICE of attorney appearance for Ernest J. Sabato, William Paulus Jr., Harry Olstein, Leonard Bellezza by Harley Shepard Tropin, Kenneth R. Hartmann (kw) [Entry date 07/01/91]

7/19/91	7	MOTION by Ernest J. Sabato, William Paulus Jr., Harry Olstein, Leonard Bellezza for to appear pro hac vice (kw) [Entry date 07/22/91]
7/29/91	8	MOTION by Ernest J. Sabato, William Paulus Jr., Harry Olstein, Leonard Bellezza for Claudia A. Costa to appear pro hac vice (pace) [Entry date 08/05/91]
8/8/91	9	ORDER granting [8-1] motion for Claudia A. Costa to appear pro hac vice granting [7-1] motion for to appear pro hac vice (signed by Judge Norman C. Roettger Jr. on 8/7/91) CCAP (kw) [Entry date 08/20/91]
9/6/91	10	NOTICE to take deposition of Judy Weaver 9/16/91 at 10:00 (kw) [Entry date 09/10/91]
9/12/91	11	NOTICE to take deposition of Judy Weaver 9/19/91 at 10:00 (kw) [Entry date 09/16/91]
9/19/91	12	NOTICE of cancellation of depostition [sic] of Judy Weaver on 9/19/91 @10:00 (kw)
3/31/92	13	ORDER granting [3-1] motion for Hearing, granting [3-2] motion status conference (signed by Judge Norman C. Roettger Jr. on 3/30/92) CCAP (kw) [Entry date 04/01/92]

1/12/93	14	NOTICE of Hearing: set status conference for 1:30 2/5/93 before Judge Norman C. Roettger Jr. (kw) [Entry date 01/14/93]
1/25/93	15	MOTION by Robert A. Beck II to continue of the hearing and status conference (kw) [Entry date 01/26/93]
2/23/94	16	NOTICE of Hearing: set status conference for 2:00 3/4/94 in WPB (lh) [Entry date 02/25/94]
3/8/94	17	Minute entry for proceeding held before Judge Norman C. Roettger Jr. on 3/4/94 – Status Hearing (lh) [Entry date 03/10/94]
3/21/94	18	RICO CASE STANDING ORDER 18 U.S.C. 1961 – 1968 DIRECTING COUNSEL ON FILING REQUIREMENTS (signed by Judge Norman C. Roettger Jr. on 3/16/94) CCAP (lh) [Entry date 03/28/94]
3/29/94	19	MOTION by Robert A. Beck II to extend time (lh) [Entry date 03/31/94]
4/5/94	20	ORDER granting [19-1] motion to extend time (signed by Judge Norman C. Roettger Jr. on 4/5/94) CCAP (jl) [Entry date 04/21/94]
4/19/94	22	MOTION by Robert A. Beck II to extend time to file RICO case statement (lh) [Entry date 04/29/94]
4/22/94	21	Defendants, The New Jersey Group's SUPPLEMENT to Memorandum of law in support of their motion to dismiss (lh) [Entry date 04/28/94]

4/22/91	24	NOTICE of Scrivener's error by William Paulus Jr., Leonard Bellezza, Ernest J. Sabato (lh) [Entry date 05/05/94]
4/26/94	23	MOTION by Robert A. Beck II for clarification or, in the alternative, unopposed motion for extension of time. (lh) [Entry date 05/03/94]
4/26/94	25	Response by Robert A. Beck II to RICO case standing Order (lh) [Entry date 05/05/94]
5/6/9	26	NOTICE of absence of counsel by Joseph S. Littenberg (lh) [Entry date 05/11/94]
5/9/94	27	MOTION by Robert A. Beck II to extend time to file opposition to amended motion to dismiss (lh) [Entry date 05/11/94]
5/11/94	28	MEMORANDUM of law by Robert A. Beck II in opposition to the New Jersey Group's motion to dismiss (lh) [Entry date 05/18/94]
5/18/94	29	ORDER granting [22-1] motion to extend time to file RICO case statement (signed by Judge Norman C. Roettger Jr. on 5/16/94) CCAP (lh) [Entry date 05/23/94]
5/18/94	30	ORDER granting [27-1] motion to extend time to file opposition to amended motion to dismiss (signed by Judge Norman C. Roettger Jr. on 5/16/94) CCAP (lh) [Entry date 05/23/94]
5/18/94	31	ORDER granting [23-1] motion for clarification or, in the alternative, unopposed motion for extension of time. (signed by

		Judge Norman C. Roettger Jr. on 5/16/94) CCAP (lh) [Entry date 05/23/94]
5/23/94	32	MOTION by Harry Olstein, William Paulus Jr., Ernest J. Sabato, Leonard Bellezza to extend time to file reply to memorandum in opposition (lh) [Entry date 05/24/94]
5/27/94	33	MOTION by Harry Olstein, William Paulus Jr., Ernest J. Sabato, Leonard Bellezza to extend time to reply (lh) [Entry date 06/01/94]
6/8/94	34	MOTION by Harry Olstein, Ernest J. Sabato, William Paulus Jr., Leonard Bellezza to extend time (lh) [Entry date 06/13/94]
6/10/94	35	NOTICE of filing certification of Michael M. Rosenbaum by Harry Olstein, William Paulus Jr., Ernest J. Sabato, Leonard Bellezza (lh) [Entry date 06/13/94]
6/13/94	36	REPLY by Ronald M. Prupis, Leonard Bellezza, William D. Lipkind, Neil L. Prupis, Ernest J. Sabato, William Paulus Jr., Harry Olstein, Frederick C. Mezey, Bryon L. Sparber, Joseph S. Littenberg to response to motion to dismiss (lh) [Entry date 06/14/94]
6/22/94	37	ORDER granting [34-1] motion to extend time (signed by Judge Norman C. Roettger Jr. on 6/23/94) CCAP (lh) [Entry date 06/23/94]
6/22/94	38	ORDER [33-1] motion to extend time to reply, [32-1] motion to extend time to file reply to memorandum in opposition,

		that the motion to dismiss is Denied (signed by Judge Norman C. Roettger Jr. on 6/20/94) CCAP (lh) [Entry date 06/23/94]
6/22/94	39	ORDER granting [32-1] motion to extend time to file reply to memorandum in opposition (signed by Judge Norman C. Roettger Jr. on 6/20/94) CCAP (lh) [Entry date 06/23/94]
6/22/94	40	ORDER granting [33-1] motion to extend time to reply (signed by Judge Norman C. Roettger Jr. on 6/20/94) CCAP (lh) [Entry date 06/23/94]
7/13/94	41	MOTION by Leonard Bellezza, Harry Olstein, William Paulus Jr., Ernest J. Sabato to extend time to respond to complaint (cg) [Entry date 07/15/94]
7/14/94	42	ORDER granting [41-1] motion to extend time to respond to complaint (signed by Judge Norman C. Roettger Jr. on 7/14/94) CCAP (lh) [Entry date 07/19/94]
8/9/94	43	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein to extend time (lh) [Entry date 08/16/94]
8/17/94	44	ANSWER by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein to Crossclaims and Third-Party Claim (lh) [Entry date 08/22/94]
8/31/94	45	STIPULATION of dismissal by Robert A. Beck II (lh) [Entry date 09/07/94]

10/17/94	46	NOTICE of filing affidavit of Roy H. Wepner by Joseph S. Littenberg (lh) [Entry date 10/19/94]
10/17/94	47	AFFIDAVIT of Roy H. Wepner by Joseph S. Littenberg (lh) [Entry date 10/19/94]
11/2/94	48	NOTICE of voluntary dismissal of count II of complaint as to Littenberg by Robert A. Beck II (ll) [Entry date 11/07/94]
11/4/94	49	NOTICE by Joseph S. Littenberg to take deposition of Robert A. Beck II 11/16/94 at 9:30 (ll) [Entry date 11/07/94]
11/4/94	50	MOTION by Joseph S. Littenberg for Rule 11 sanctions (ll) [Entry date 11/07/94]
11/4/94	51	MEMORANDUM by Joseph S. Littemberg in support of [50-1] motion for Rule 11 sanctions (ll) [Entry date 11/07/94]
11/4/94	52	AMENDED MEMORANDUM by Joseph S. Littenberg in support of [51-1] support memorandum, [50-1] motion for Rule 11 sanctions (ll) [Entry date 11/07/94]
11/8/94	53	ORDER granting [43-1] motion to extend time (signed by Judge Norman C. Roettger Jr. on 11/7/94) CCAP (lh) [Entry date 11/17/94]
11/14/94	54	MOTION by Robert A. Beck II to extend time (lh) [Entry date 11/17/94]
11/14/94	55	RE-NOTICE by Joseph S. Littenberg to take deposition of Robert A. Beck, II 12/1/94 at 10:00 (lh) [Entry date 11/17/94]

11/22/94	56	ORDER granting [54-1] motion to extend time (signed by Judge Norman C. Roettger Jr. on 11/21/94) CCAP (lh) [Entry date 11/23/94]
11/22/94	57	ORDER, set pretrial conference for 10:00 1/31/95 before Magistrate Barry S. Seltzer (signed by Judge Norman C. Roettger Jr. on 11/18/94) CCAP (lh) [Entry date 11/30/94]
11/23/94	58	RE-NOTICE by Joseph S. Littenberg to take deposition of Robert 12/7/94 at 10:00 (lh) [Entry date 12/02/94]
11/29/94	59	MOTION by Robert A. Beck II to extend time (lh) [Entry date 12/02/94]
12/5/94	61	MOTION by Robert A. Beck II to extend time to file response to motion for sanctions (lh) [Entry date 12/07/94]
12/6/94	60	MEMORANDUM by Robert A. Beck II in opposition to [50-1] motion for Rule 11 sanctions (lh) [Entry date 12/07/94]
12/7/94	62	AFFIDAVIT of Jay Starkman by Robert A. Beck II Re: [60-1] opposition memorandum (lh) [Entry date 12/08/94]
12/7/94	63	AFFIDAVIT by Robert A. Beck II Re: [60-1] opposition memorandum (lh) [Entry date 12/08/94]
12/15/94	64	MOTION with memorandum in support by Bryon L. Sparber to dismiss crossclaim and strike notice of appearance (lh) [Entry date 12/19/94]
12/15/94	65	AFFIDAVIT by Bryon L. Sparber Re: [64-1] motion to dismiss crossclaim and

		strike notice of appearance (lh) [Entry date 12/19/94]
12/16/94	66	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein for Richard M. DeAgazio to appear pro hac vice (lh) [Entry date 12/20/94]
12/16/94	67	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein for Kenneth J. Cesta to appear pro hac vice (lh) [Entry date 12/20/94]
12/22/94	68	MOTION with memorandum in support by Robert A. Beck II, Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein, Joseph S. Littenberg to continue pre-trial conference (ll) [Entry date 12/27/94]
12/22/94	69	NOTICE of vacation (lh) [Entry date 12/29/94]
12/23/94	70	AMENDMENT by Joseph S. Littenberg to: [49-1] deposition notice – to 1/5/95 at 9:30 (lh) [Entry date 12/29/94]
12/28/94	71	MOTION by Robert A. Beck II to extend time to file response to motion to dismiss (lh) [Entry date 12/29/94]
1/3/95	72	ORDER granting [61-1] motion to extend time to file response to motion for sanctions (signed by Judge Norman C. Roettger Jr. on 12/27/94) CCAP (lh) [Entry date 01/05/95]
1/3/95	73	ORDER granting [59-1] motion to extend time (signed by Judge Norman C. Roettger Jr. on 12/27/94) CCAP (lh) [Entry date 01/05/95]

1/3/95	74	ORDER granting [71-1] motion to extend time to file response to motion to dismiss (signed by Judge Norman C. Roettger Jr. on 12/29/94) CCAP (lh) [Entry date 01/05/95]
1/3/95	75	ORDER granting [68-1] motion to continue pre-trial conference (signed by Judge Norman C. Roettger Jr. on 12/29/94) CCAP (lh) [Entry date 01/05/95]
1/4/95	76	MOTION by Robert A. Beck II to extend time to file response to motion to dismiss and motion to strike notice of appearance (lh) [Entry date 01/10/95]
1/6/95	77	NOTICE by Joseph S. Littenberg to take deposition of Robert A. Beck 1/27/95 at 10:30 (lh) [Entry date 01/10/95]
1/10/95	78	RE-NOTICE by Joseph S. Littenberg to take deposition of Robert A. Beck 1/27/95 at 10:30 (lh) [Entry date 01/11/95]
1/10/95	79	MEMORANDUM by Robert A. Beck II in opposition to [64-1] motion to dismiss crossclaim and strike notice of appearance (lh) [Entry date 01/13/95]
1/13/95	80	NOTICE of continuation of deposition by Joseph S. Littenberg (lh) [Entry date 01/17/95]
1/17/95	81	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein to dismiss Beck's crossclaims or, alternatively, to compel discovery (lh) [Entry date 01/18/95]

1/17/95	82	MEMORANDUM by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein in support of [81-1] motion to dismiss Beck's crossclaims or, alternatively, to compel discovery (lh) [Entry date 01/18/95]
1/17/95	83	Certification of Kenneth R. Hartmann, Esq. by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein (lh) [Entry date 01/18/95]
1/18/95	84	ORDER, reset pretrial conference for 10:00 3/21/95 (signed by Magistrate Barry S. Seltzer on 1/16/95) CCAP (lh) [Entry date 01/23/95]
1/20/95	85	NOTICE to take deposition of Robert A. Beck, II 2/6/95 at 10:00 (lh) [Entry date 01/24/95]
1/23/95	86	REPLY by Bryon L. Sparber to response to [64-1] motion to dismiss crossclaim and strike notice of appearance (lh) [Entry date 01/24/95]
1/24/95	87	MOTION with memorandum in support by Bryon L. Sparber for leave to file reply in excess of ten pages in support of his motion to dismiss (lh) [Entry date 01/25/95]
1/25/95	88	STIPULATION of dismissal by Robert A. Beck II (lh) [Entry date 01/30/95]
1/30/95	89	MOTION by Robert A. Beck II to extend time to respond to motion to dismis (lh)
2/6/95	90	MEMORANDUM by Robert A. Beck II in opposition to [81-1] motion to dismiss Beck's crossclaims or, alternatively, to compel discovery (lh) [Entry date 02/07/95]

2/6/95	91	ORDER granting [88-1] dismiss/dismissal stipulation (signed by Judge Norman C. Roettger Jr. on 2/1/95 CCAP (lh) [Entry date 02/08/95]
2/6/95	92	ORDER granting [89-1] motion to extend time to respond to motion to dismis [sic] (signed by Judge Norman C. Roettger Jr. on 2/3/95 CCAP (lh) [Entry date 02/08/95]
2/8/95	93	NOTICE of change of attorney's address by Joseph S. Littenberg (lh) [Entry date 02/09/95]
2/14/95	94	MOTION with memorandum in support by Robert A. Beck II for protective order (lh) [Entry date 02/15/95]
2/15/95	95	MOTION by Robert A. Beck II to compel answers to interrogatories and production of documents (lh) [Entry date 02/21/95]
2/17/95	96	NOTICE of vacation by Robert A. Beck II (lh) [Entry date 02/21/95]
2/17/95	97	REPLY by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein to response to [81-1] motion to dismiss Beck's crossclaims or, alternatively, to compel discovery (lh) [Entry date 02/21/95]
2/21/95	98	MOTION by Frederick C. Mezey for protective order and certification in support thereof (lh) [Entry date 02/27/95]

2/22/95	99	MOTION by Robert A. Beck II to reschedule pretrial conference consistent with Judge Roettger's Order (lh) [Entry date 02/27/95]
2/22/95	100	ORDER granting [76-1] motion to extend time to file response to motion to dismiss and motion to strike notice of appearance (signed by Judge Norman C. Roettger Jr. on 2/20/95) CCAP (lh) [Entry date 02/27/95]
2/23/95	103	ORDER referring case to mediation. set Jury trial for 10:00 4/10/95 15 days to appoint mediator (signed by Judge Norman C. Roettger Jr. on 2/10/95) CCAP (lh) [Entry date 03/08/95]
2/23/95	104	ORDER Re: Trial Instructions (signed by Judge Norman C. Roettger Jr. on 2/10/95 CCAP (lh) [Entry date 03/08/95]
2/24/95	101	ORDER granting [99-1] motion to reschedule pretrial conference consistent with Judge Roettger's Order, and reset pretrial conference for 2:00 5/8/95 (signed by Magistrate Barry S. Seltzer on 2/24/95) CCAP (lh) [Entry date 02/27/95]
2/28/95	102	MOTION by Robert A. Beck II for clarification of [101-1] order reset pretrial conference for 2:00 5/8/95 (lh) [Entry date 03/02/95]
2/28/95	106	ORDER, reset pretrial conference for 10:00 4/7/95 (signed by Magistrate Barry S. Seltzer on 2/28/95) CCAP (lh) [Entry date 03/08/95)

3/1/95	105	MOTION by Robert A. Beck II to continue trial (lh) [Entry date 03/08/95]
3/6/95	107	JOINDER MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein for clarification of [101-1] order reset pretrial conference for 2:00 5/8/95 (lh) [Entry date 03/10/95]
3/6/95	108	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein for relief from pretrial orders regarding disclosure of expert testimony (lh) [Entry date 03/10/95]
3/6/95	109	JOINDER MOTION by Joseph S. Littenberg for clarification of [102-1] motion for clarification of [101-1] order reset pretrial conference for 2:00 5/8/95 (lh) [Entry date 03/10/95]
3/6/95	113	ORDER granting [67-1] motion for Kenneth J. Cesta to appear pro hac vice, granting [66-1] motion for Richard M. DeAgazio to appear pro hac vice (signed by Judge Norman C. Roettger Jr. on 3/1/95) CCAP (lh) [Entry date 03/15/95]
3/9/95	114	MOTION by Joseph S. Littenberg to dismiss Beck's cross-claim or, alternatively, to compel discovery (lh) [Entry date 03/15/95]
3/13/95	115	MOTION to refer all discovery matters to Magistrate Judge (lh) [Entry date 03/15/95]
3/13/95	116	NOTICE/Request by New Jersey Group for case management conference (lh) [Entry date 03/15/95]

3/13/95 117 MOTION by New Jersey Group to conduct trial in Miami Divison (lh) [Entry date 03/15/95]

3/14/95 126 MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein to continue trial (lh) [Entry date 03/22/95]

3/14/95 127 ORDER granting [126-1] motion to continue trial, denying [117-1] motion by New Jersey Group to conduct trial in Miami Division, denying [115-1] motion to refer all discovery matters to Magistrate Judge, denying [108-1] motion for relief from pretrial orders regarding disclosure of expert testimony, granting [102-1] motion for clarification of [101-1] order reset pretrial conference for 2:00 5/8/95, denying [98-1] motion for protective order and certification in support thereof, granting [95-1] motion to compel answers to interrogatories and production of documents, denying [94-1] motion for protective order, denying [87-1] motion for leave to file reply in excess of ten pages in support of his motion to dismiss, granting in part, denying in part [81-1] motion to dismiss Beck's crossclaims or, alternatively, to compel discovery (signed by Judge Norman C. Roettger Jr. on 3/14/95) CCAP (lh) [Entry date 03/22/95]

3/15/95 110 DEPOSITION of Joseph Littenberg (lh)

3/15/95 111 DEPOSITION of Joseph Littenberg (lh)

3/15/95 112 DEPOSITION of Robert A. Beck, II (lh)

3/15/95 118 MOTION by Joseph S. Littenberg for summary judgment (lh) [Entry date 03/20/95]

3/15/95 119 MEMORANDUM by Joseph S. Littenberg in support of [118-1] motion for summary judgment (lh) [Entry date 03/20/95]

3/15/95 120 NOTICE of filing deposition transcripts in support by Joseph S. Littenberg (lh) [Entry date 03/20/95]

3/15/95 121 NOTICE/REQUEST by Joseph S. Littenberg for oral argument on motion for summary judgment (lh) [Entry date 03/20/95]

3/15/95 122 Statement of: Material facts by Joseph S. Littenberg (lh) [Entry date 03/20/95]

3/17/95 123 MOTION with memorandum in support by Bryon L. Sparber for leave to file an abbreviated reply in support of his motion to dismiss (lh) [Entry date 03/20/95]

3/17/95 124 AMENDMENT by Leonard Bellezza, William Paulus Jr., Ernest J. Sabato, Harry Olstein to: [90-1] opposition memorandum (lh) [Entry date 03/20/95]

3/17/95 125 REPLY by Bryon L. Sparber to response to [64-1] motion to dismiss crossclaim and strike notice of appearance (lh) [Entry date 03/20/95]

3/17/95 128 MOTION by Robert A. Beck II to extend time to oppose defendant Littenberg's motion for summary judgment (lh) [Entry date 03/22/95]

3/20/95	130	MOTION with memorandum in support by Robert A. Beck II for protective order (lh) [Entry date 03/22/95]
3/21/95	129	STIPULATION by Robert A. Beck II, Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein, Joseph S. Littenberg In Re: as to residence of witnesses and parties (lh) [Entry date 03/22/95]
3/23/95	131	RESPONSE by Joseph S. Littenberg in opposition to [128-1] motion to extend time to oppose defendant Littenberg's motion for summary judgment (lh) [Entry date 03/24/95]
3/27/95	132	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein to Take Deposition (lh)
3/27/95	133	Concise Statement of: Material Facts as to which it is contended that there exists a genuine issue to be tried, precluding Littenberg's motion for summary judgment by Robert A. Beck II (lh) [Entry date 03/28/95]
3/27/95	134	MEMORANDUM by Robert A. Beck II in opposition to [118-1] motion for summary judgment (lh) [Entry date 03/28/95]
3/30/95	135	NOTICE of Request for oral argument on motion for summary judgment by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein (lh)
3/30/95	136	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein

		for summary judgment (lh) [Entry date 03/31/95]
3/30/95	137	MEMORANDUM by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein in support of [136-1] motion for summary judgment (lh) [Entry date 03/31/95]
3/30/95	138	Statement of: Material Facts by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein (lh) [Entry date 03/31/95]
3/31/95	139	MOTION to quash subpoena by non-party Ronald Turner (lh) [Entry date 04/04/95]
4/3/95	140	MOTION with memorandum in support by Robert A. Beck II for default judgment against Ronald M. Prupis (lh) [Entry date 04/04/95]
4/3/95	141	MOTION with memorandum in support by Robert A. Beck II to compel production of the New Jersey Group's settlement agreement, sworn statements and related documents (lh) [Entry date 04/04/95]
4/3/95	142	MOTION by Robert A. Beck II in limine (lh) [Entry date 04/04/95]
4/3/95	143	MEMORANDUM by Robert A. Beck II in support of [142-1] motion in limine (lh) [Entry date 04/04/95]
4/3/95	144	MEMORANDUM by Leonard Bellezza in opposition to defendants Neil Prupis and William Lipkind's motion to dismiss (lh) [Entry date 04/04/95]

4/3/95	145	JOINT PRETRIAL STIPULATION by Robert A. Beck II, Leonard Bellezza, Ernst J. Sabato, William Paulus Jr., Harry Olstein, Frederick C. Mezey, Bryon L. Sparber, Joseph S. Littenberg (lh) [Entry date 04/04/95]
4/3/95	147	NOTICE of Mediation Hearing on 4/5/95 John Finn added as mediator (lh) [Entry date 04/06/95]
4/4/95	146	MOTION by Leonard Bellezza, Ernst J. Sabato, William Paulus Jr., Harry Olstein to Take Deposition of Ronald Turner (lh) [Entry date 04/05/95]
4/5/95	148	ORDER, Motion hearing before Judge Norman C. Roettger Jr. set for 9:15 4/28/95 for [118-1] motion for summary judgment, and reset Jury trial for 6/21/95 (signed by Judge Norman C. Roettger Jr. on 4/4/95) CCAP (lh) [Entry date 04/10/95]
4/7/95	149	Minute entry for pretrial conference proceeding held before Magistrate Barry S. Seltzer on 4/7/95 Court Reporter name: Tape (lh) [Entry date 04/10/95]
4/7/95	150	REPLY by Joseph S. Littenberg to response to [118-1] motion for summary judgment (lh) [Entry date 04/10/95]
4/10/95	151	STATUS REPORT ORDER on PRETRIAL CONFERENCE. (signed by Magistrate Barry S. Seltzer on 4/10/95) CCAP (lh) [Entry date 04/11/95]
4/10/95	152	MOTION by Robert A. Beck II to amend exhibit list to correct a Scrivener's error (lh) [Entry date 04/12/95]

4/12/95	156	MOTION by Robert A. Beck II to extend time to oppose motion for summary judgment (lh) [Entry date 04/19/95]
4/12/95	157	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein to extend time to respond to motion in limine, motion to compel (lh) [Entry date 04/19/95]
4/14/95	153	MOTION with memorandum in support by William D. Lipkind, Neil L. Prupis for separate trials (dp) [Entry date 04/18/95]
4/14/95	154	REPLY by William D. Lipkind, Neil L. Prupis to response to motion to dismiss (dp) [Entry date 04/18/95]
4/14/95	155	Certification of Alan Grunspan re: motion to dismiss by William D. Lipkind, Neil L. Prupis (dp) [Entry date 04/18/95]
4/18/95	158	FINAL report of Mediator. Disposition: Impasse (lh) [Entry date 04/21/95]
4/20/95	159	RESPONSE by Robert A. Beck II to [136-1] motion for summary judgment (dp) [Entry date 04/24/95]
4/20/95	160	EXHIBITS to: [159-1] motion response by Robert A. Beck II (dp) [Entry date 04/24/95]
4/20/95	161	EXHIBITS to: [159-1] motion response by Robert A. Beck II (dp) [Entry date 04/24/95]
4/20/95	162	EXHIBITS to: [159-1] motion response by Robert A. Beck II (dp) [Entry date 04/24/95]

4/20/95	163	Statement of material facts: by Robert A. Beck II (dp) [Entry date 04/24/95]
4/26/95	164	MEMORANDUM by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein in support of [136-1] motion for summary judgment (ll) [Entry date 05/01/95]
4/26/95	165	Certification of Kenneth Hartmann re: motion for summary judgment by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein (ll) [Entry date 05/01/95]
4/28/95	166	NOTICE of filing deposition transcript in support of motion for summary judgment by Joseph S. Littenberg (dp) [Entry date 05/03/95]
5/3/95	167	NOTICE of absence from the jurisdiction from 8/4-25/95 by Joseph S. Littenberg (dp)
5/3/95	168	ORDER granting in part, denying in part [64-1] motion to dismiss crossclaim and strike notice of appearance (signed by Judge Norman C. Roettger Jr. on 5/3/95) CCAP (lh) [Entry date 05/04/95]
5/4/95	169	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein to extend time to respond to motion in limine and motion to compel (lh) [Entry date 05/08/95]
5/4/95	170	ORDER, Denying motion to dismiss (signed by Judge Norman C. Roettger Jr. on 4/25/95) CCAP (lh) [Entry date 05/08/95]

5/12/95	171	NOTICE of attorney appearance for William D. Lipkind, Neil L. Prupis by Alan Michael Grunspan (lh) [Entry date 05/16/95]
5/12/95	172	MOTION by Leonard Bellezza, Neil L. Prupis, Ernest J. Sabato, Harry Olstein to extend time to reply to motion in limine (dp) [Entry date 05/16/95]
5/12/95	173	RESPONSE by Leonard Bellezza, Neil L. Prupis, Ernest J. Sabato, Harry Olstein to [141-1] motion to compel production of the New Jersey Group's settlement agreement, sworn statements and related documents (dp) [Entry date 05/16/95]
5/17/95	174	ANSWER by Ronald M. Prupis, William D. Lipkind to crossclaim (lh) [Entry date 05/19/95]
5/17/95	175	NOTICE of vacation ? (lh) [Entry date 05/23/95]
5/19/95	176	MOTION by Robert A. Beck II to extend time to reply in support of motion to compel (lh) [Entry date 05/23/95]
5/22/95	177	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein to extend time to reply to motion in limine (dp) [Entry date 05/26/95]
5/25/95	178	SUPPLEMENT by Leonard Bellezza to: [164-1] support memorandum (lh) [Entry date 05/30/95]
5/25/95	179	MOTION by Leonard Bellezza for leave to file supplemental memorandum of law (lh) [Entry date 05/30/95]

5/25/95	180	MEMORANDUM by Leonard Bellezza in opposition to [142-1] motion in limine (lh) [Entry date 05/30/95]
5/25/95	181	AFFIDAVIT of Tania Guerra (lh) [Entry date 05/31/95]
5/25/95	182	NOTICE of filing affidavit of Tania Guerra by the New Jersey Group (lh) [Entry date 05/31/95]
5/30/95	183	REPLY by Robert A. Beck II to response to [141-1] motion to compel production of the New Jersey Group's settlement agreement, sworn statements and related documents (lh) [Entry date 06/05/95]
6/6/95	184	Transcript filed re: Date: 4/28/95 Before Judge: Roettger Number of pages: 1 thru 76 (lh)
6/6/95	185	MOTION by Robert A. Beck II to amend witness list (lh) [Entry date 06/07/95]
6/7/95	186	MOTION by Robert A. Beck II to extend time to file reply memorandum in support of motion in limine (lh) [Entry date 06/08/95]
6/7/95	187	MOTION with memorandum in support by William D. Lipkind, Neil L. Prupis for leave to file summary judgment motion (lh) [Entry date 06/08/95]
6/7/95	188	MOTION with memorandum in support by William D. Lipkind, Neil L. Prupis for summary judgment against the Belleza Group's Crossclaim for contribution (lh) [Entry date 06/08/95]

6/7/95	189	Statement of: Material Facts as to which there exists no genuine issue to be tried in support of their motion for summary judgment by William D. Lipkind, Neil L. Prupis (lh) [Entry date 06/08/95]
6/9/95	190	MEMORANDUM by Robert A. Beck II in opposition to [179-1] motion for leave to file supplemental memorandum of law (lh) [Entry date 06/12/95]
6/12/95	191	ORDER granting [136-1] motion for summary judgment, for summary judgment denying [188-1] motion for summary judgment against the Belleza Group's Crossclaim for contribution, denying [187-1] motion for leave to file summary judgment motion, denying [186-1] motion to extend time to file reply memorandum in support of motion in limine, denying [185-1] motion to amend witness list, denying [179-1] motion for leave to file supplemental memorandum of law, denying [177-1] motion to extend time to reply to motion in limine, denying [176-1] motion to extend time to reply in support of motion to compel, denying [172-1] motion to extend time to reply to motion in limine, denying [169-1] motion to extend time to respond to motion in limine and motion to compel, denying [153-1] motion for separate trials, denying [157-1] motion to extend time to respond to motion in limine, motion to compel, denying [156-1] motion to extend time to oppose motion for summary judgment, denying [152-1]

motion to amend exhibit list to correct a Scrivener's error, denying [146-1] motion to Take Deposition of Ronald Turner, denying [142-1] motion in limine, denying [141-1] motion to compel production of the New Jersey Group's settlement agreement, sworn statements and related documents, denying [140-1] motion for default judgment against Ronald M. Prupis, denying [139-1] motion to quash subpoena by non-party Ronald Turner, denying [132-1] motion to Take Deposition, denying [130-1] motion for protective order, denying [123-1] motion for leave to file an abbreviated reply in support of his motion to dismiss, denying [128-1] motion to extend time to oppose defendant Littenberg's motion for summary judgment, denying [118-1] motion for summary judgment, denying [114-1] motion to dismiss Beck's cross-claim or, alternatively, to compel discovery, denying [109-1] motion for clarification of [102-1] motion for clarification of [101-1] order reset pretrial conference for 2:00 5/8/95, denying [107-1] motion for clarification of [101-1] order reset pretrial conference for 2:00 5/8/95, denying [105-1] motion to continue trial, denying [50-1] motion for Rule 11 sanctions (signed by Judge Norman C. Roettger Jr. on 6/7/95) CCAP (lh) [Entry date 06/13/95]

6/12/95	—	Case closed (lh) [Entry date 06/13/95]
6/21/95	192	NOTICE of Pendency of Motion by Joseph S. Littenberg re: [50-1] motion for

		Rule 11 sanctions (lh) [Entry date 06/26/95]
7/5/95	193	NOTICE OF APPEAL by Robert A. Beck II of [191-1] order for summary judgment, [168-1] order. EOD Date: 05/04/95; Filing Fee: $105.00; Receipt #: 508023; Appeal record due on 7/15/95 Copies to USCA and Counsel of Record. (gf) [Entry date 07/06/95]
7/6/95	—	Certified copies of Notice of Appeal, Docket, and Order under appeal to USCA: [193-1] appeal by Robert A. Beck II (gf)
7/7/95	194	MOTION by Leonard Bellezza, Harry Olstein, Ernest J. Sabato to Tax Costs, and for bill of costs (lh) [Entry date 07/11/95]
7/7/95	195	AFFIDAVIT of Michael M. Rosenbaum Re: [194-2] motion for bill of costs (lh) [Entry date 07/11/95]
7/7/95	196	MOTION by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein for sanctions (lh) [Entry date 07/11/95]
7/7/95	197	AFFIDAVIT of Michael M. Rosenbaum Re: [196-1] motion for sanctions (lh) [Entry date 07/11/95]
7/7/95	198	NOTICE/REQUEST for oral argument on motion for sanctions by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein (lh) [Entry date 07/11/95]
7/7/95	199	CERTIFICATE OF SERVICE by Leonard Bellezza, Ernest J. Sabato, William

Paulus Jr., Harry Olstein (lh) [Entry date 07/11/95]

7/11/95 200 Certification re: conference by Leonard Bellezza (lh) [Entry date 07/13/95]

7/14/95 — NOTICE of Receipt of Transmittal Letter from USCA Re: [193-1] appeal by Robert A. Beck II USCA NUMBER: 95-4844 (gf) [Entry date 09/01/95]

7/17/95 204 TRANSCRIPT filed [193-1] appeal by Robert A. Beck II for dates of 4/28/95 Appeal record due on 8/1/95 (lh) [Entry date 07/21/95]

7/18/95 201 MOTION by Robert A. Beck II to extend time to oppose motion for sanctions (lh) [Entry date 07/19/95]

7/18/95 202 MOTION by Robert A. Beck II to extend time to oppose motion for tax costs (lh) [Entry date 07/19/95]

7/20/95 203 NOTICE OF JOINDER AND ADOPTION of the Bellezza Group's Motion for sanctions by Joseph S. Littenberg (lh) [Entry date 07/21/95]

7/20/95 205 Minute of summary judgment held before Judge Norman C. Roettger Jr. on 4/28/95; Court Reporter Name: Goldfarb (lh) [Entry date 07/27/95]

7/28/95 206 MOTION by Robert A. Beck II to extend time to file memorandum in opposition to motion for tax costs (lh) [Entry date 08/02/95]

7/31/95 207 MEMORANDUM by Robert A. Beck II in opposition to [194-1] motion to Tax Costs (lh) [Entry date 08/03/95]

7/31/95 — Appeal Information Sheet re:[193-1] appeal by Robert A. Beck II. No transcript requested. Appeal Record due on 7/18/95 (gf) [Entry date 08/31/95]

8/4/95 208 MOTION by Robert A. Beck II to extend time to file opposition to motion for sanctions (lh) [Entry date 08/09/95]

8/7/95 209 ORDER granting [206-1] motion to extend time to file memorandum in opposition to motion for tax costs (signed by Judge Norman C. Roettger Jr. on 8/7/95) CCAP (lh) [Entry date 08/09/95]

8/7/95 210 ORDER granting [208-1] motion to extend time to file opposition to motion for sanctions (signed by Judge Norman C. Roettger Jr. on 8/5/95) CCAP (lh) [Entry date 08/11/95]

8/9/95 211 MOTION by Leonard Bellezza to extend time to reply to motion to tax cost (lh) [Entry date 08/14/95]

8/10/95 212 ORDER granting [201-1] motion to extend time to oppose motion for sanctions (signed by Judge Norman C. Roettger Jr. on 8/10/95) CCAP (lh) [Entry date 08/14/95]

8/10/95 213 ORDER granting [202-1] motion to extend time to oppose motion for tax costs (signed by Judge Norman C. Roettger Jr. on 8/10/95) CCAP (lh) [Entry date 08/14/95]

8/11/95 214 MOTION by Robert A. Beck II to extend time to oppose motion for sanctions (lh) [Entry date 08/14/95]

8/18/95	215	MEMORANDUM by Robert A. Beck II in opposition to [196-1] motion for sanctions (lh) [Entry date 08/22/95]
8/21/95	217	REPLY by Leonard Bellezza to response to [194-1] motion to Tax Costs (lh) [Entry date 08/25/95]
8/22/95	216	ORDER granting [211-1] motion to extend time to reply to motion to tax cost (signed by Judge Norman C. Roettger Jr. on 8/16/95) CCAP (lh) [Entry date 08/25/95]
8/28/95	218	MOTION by Leonard Bellezza to extend time to file reply to memorandum in opposition to motion for Rule 11 sanctions (lh) [Entry date 08/30/95]
9/5/95	219	ORDER granting [214-1] motion to extend time to oppose motion for sanctions (signed by Judge Norman C. Roettger Jr. on 8/28/95) CCAP (lh) [Entry date 09/07/95)
9/22/95	220	REPLY BRIEF by Leonard Bellezza to response to [196-1] motion for sanctions (lh) [Entry date 09/25/95]
9/22/95	221	REPLY AFFIDAVIT of Michael M. Rosenbaum by Leonard Bellezza Re: [196-1] motion for sanctions (lh) [Entry date 09/25/95]
10/3/95	222	RESPONSE by Robert A. Beck II in opposition to [196-1] motion for sanctions (lh) [Entry date 10/04/95]
10/25/95	—	Certificate of readiness transmitted to USCA Re: [193-1] appeal by Robert A. Beck II USCA NUMBER; 95-4844 (gf)

11/15/95	—	ACKNOWLEDGMENT of receipt by U.S.C.A. of: Certificate of Readiness U.S.C.A. #95-4844 (gf) [Entry date 12/01/95]
11/21/95	223	ORDER denying [196-1] motion for sanctions, granting in part, denying in part [194-1] motion to Tax Costs, granting in part, denying in part [194-2] motion for bill of costs singed by Judge Norman C. Roettger Jr. on 11/20/95) CCAP (lh) [Entry date 11/27/95]
12/21/95	224	NOTICE OF APPEAL by Leonard Bellezza, Ernest J. Sabato, William Paulus Jr., Harry Olstein of [223-1] order. EOD Date: 11/27/95; Filing Fee: $105.00; Receipt #: 657455; Appeal record due on 12/31/95 Copies to USCA and Counsel of Record. (gf) [Entry date 12/22/95]
12/22/95	—	Certified copies of Notice of Appeal, Docket, and Order under appeal to USCA: [224-1] appeal by Harry Olstein, William Paulus Jr., Ernest J. Sabato, Leonard Bellezza (gf)
12/28/95	225	MOTION by Robert A. Beck II to supplement the record (lh) [Entry date 12/29/95]

United States Court of Appeals
11th Circuit-Atlanta

Entry Date	Date 2	Docket Entry	Party	Pend
07/14/95	/ /	Probable Jurisdiction Noted Converted from Old CMS.	None	
07/17/95	/ /	Court Reporter Financial Arrangements Converted from Old CMS.	None	
07/18/95	/ /	Transcript Converted from Old CMS.	None	
09/12/95	/ /	Staff Attorney Further Review Converted from Old CMS.	None	
10/30/95	/ /	Certificate of Readiness Converted from Old CMS.	None	
11/13/95	/ /	Briefing Notice Issued Converted from Old CMS.	None	
12/29/95	/ /	Appellant Brief Converted from Old CMS.	None	

03/04/96	/ /	Appellee Brief Converted from Old CMS.	None	
04/01/96	/ /	Reply Brief Converted from Old CMS.	None	
01/08/97	/ /	Argument Scheduled Converted from Old CMS.	None	
12/15/98	/ /	Opinion Issued Converted from Old CMS.	None	
01/19/99	/ /	Mandate Issued Converted from Old CMS.	None	
03/22/99	/ /	Notice of Filing Certiorari – CT#98-1480	None	
03/27/99	/ /	See Previous Docket Sheet for Case Information prior to conversion date. Converted from Old CMS.	None	
06/09/99	06/07/99	Certiorari Granted	None	

INSURANCE CONSULTANTS OF AMERICA, INC., EMPLOYEE PENSION PLAN, et al.,	:	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY
Plaintiffs,	:	CASE NO. 89-3389xx AJL
vs.	:	
SOUTHEASTERN INSURANCE GROUP INC., a Florida Corporation, et al.,	:	
Defendants.	:	

DEFENDANT BECK'S CROSSCLAIM AND THIRD PARTY COMPLAINT

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INSURANCE CONSULTANTS OF AMERICA, INC., EMPLOYEE PENSION PLAN, et al.,	:	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY
Plaintiffs,	:	CASE NO. 89-3389xx AJL
vs.	:	
SOUTHEASTERN INSURANCE GROUP a Florida Corporation, et al.,	:	
Defendants.	:	

DEFENDANT, BECK'S, CROSSCLAIM AND THIRD PARTY COMPLAINT

(Filed May 31, 1990)

Crossplaintiff and third party plaintiff, Robert A. Beck, II ("BECK"), sues crossdefendants, Ronald M. Prupis ("R. PRUPIS"), Leonard Bellezza ("BELLEZZA"), William D. Lipkind ("LIPKIND"), Neil L. Prupis ("N. PRUPIS"), Ernest J. Sabato ("SABATO"), William Paulus, Jr. ("PAULUS"), Harry Olstein ("OLSTEIN"), Frederick C. Mezey ("MEZEY"), Byron L. Sparber ("SPARBER"), and Joseph S. Littenberg ("LITTENBERG"), as well as third party defendants, Robert Pershes ("PERSHES") and Firemark Consultants, Inc. ("FIREMARK"), and states that:

I. NATURE OF THE ACTION

1. These claims arise under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 *et seq.* and the common law of New Jersey.

2. All conditions precedent to bringing these claims have been performed or have occurred.

3. This court has jurisdiction over this action pursuant to 18 U.S.C. §§ 1964 and 1965 and the doctrines of pendant and ancillary jurisdiction.

II. THE PARTIES

4. Crossplaintiff and third party plaintiff, BECK, is a resident of Palm Beach County, Florida. Until May 13, 1988, he was President of Southeastern Insurance Group, Inc. ("SIG").

5. Crossdefendants, BELLEZZA, SABATO, PAULUS, OLSTEIN, LIPKIND, N. PRUPIS, MEZEY and LITTENBERG are citizens of the State of New Jersey. Crossdefendants, R. PRUPIS and SPARBER, as well as third party defendant, PERSHES, are residents of the State of Florida. All of these persons were either senior officers or directors of SIG and/or its subsidiaries. They are referred to throughout this complaint as "the Senior Officers and Directors."

6. Third party defendant, FIREMARK, is a New Jersey corporation, having its principal place of business in the State of New Jersey. FIREMARK was an agent for the Senior Officers and Directors of SIG as a consultant on behalf of SIG. FIREMARK, at all relevant times, acted through its agents and owner-employees including

Michael J. Morrissey, Chairman, and Joanne S. Morrissey, President.

7. SIG was a Florida corporation, which, until January 5, 1990, had its principal place of business in Florida. On January 5, 1990, SIG filed a petition for bankruptcy in the Southern District of Florida. Since its inception and until it declared bankruptcy, SIG engaged in a business which affected interstate commerce. Specifically, SIG was a holding company whose subsidiaries operated various businesses, including insurance and surety.

8. SIG is an enterprise within the meaning of RICO, 18 U.S.C. § 1961(4).

9. BELLEZZA, SABATO, PAULUS, OLSTEIN, LIPKIND, N. PRUPIS, R. PRUPIS, MEZEY, SPARBER, PERSHES and LITTENBERG are all "persons" within the meaning of RICO, 18 U.S.C. § 1961(3). By virtue of each of these persons' association with each other and through their interests in SIG, each maintains or has maintained an interest in, or was employed by or associated with, the enterprise identified above.

10. FIREMARK is a "person" within the meaning of RICO, 18 U.S.C. § 1961(3). By virtue of its position as agent to the Senior Officers and Directors and to SIG, FIREMARK maintains or maintained an interest in, or is or has been employed by or associated with, the enterprise identified above.

III. GENERAL ALLEGATIONS

A. SCHEME AND ARTIFICE TO DEFRAUD, TO OBTAIN MONEY AND PROPERTY AND TO INTERFERE WITH COMMERCE BY MEANS OF EXTORTION

11. Beginning in or around the fall of 1985, the Senior Officers and Directors devised and intended to devise a scheme and artifice to defraud and to obtain money and property from BECK and others by means of false and fraudulent pretenses, representations and promises, and to obstruct, delay and affect commerce by means of extortion. The defendants knew that the pretenses, representations and promises were false and fraudulent.

12. It was the essence of the scheme and artifice that the Senior Officers and Directors engaged in a pattern of racketeering activity calculated to make it appear that BECK was responsible for their misdeeds in the operation of SIG and to damage him financially.

13. The Senior Officers and Directors fraudulently caused SIG to terminate BECK "for cause" so that they could continue and preserve their racketeering activity, prevent BECK from effectively "blowing the whistle," and, at the same time, avoid their enterprise being liable to BECK for damages for breach of contract. They also damaged BECK's reputation so that his claims of their improper acts would not be believed and also so that he could be a scapegoat they could blame for their improper activities.

14. The Senior officers and Directors further fraudulently induced BECK to guarantee SIG obligations personally. They also committed abuses which inevitably triggered those guarantees.

15. BELLEZZA, R. PRUPIS, N. PRUPIS, PAULUS, LIPKIND, MEZEY, OLSTEIN and SPARBER further fraudulently induced BECK to make an unsecured loan to SIG. The Senior Officers and Directors committed abuses and looted the company, causing SIG to be unable to repay BECK.

16. The Senior officers and Directors, for the purpose of executing and attempting to execute the aforesaid scheme and artifice: did knowingly and intentionally cause to be delivered by the United States Postal Service, according to the direction thereon, various letters and other matters and things, in repeated violation of 18 U.S.C. § 1341 (mail fraud); did knowingly and intentionally cause to be transmitted in interstate commerce by means of wire communications, signs, signals and sounds, that is telephonic communications, in repeated violation of 18 U.S.C. § 1343 ("wire fraud"); and did knowingly and intentionally obstruct, delay and affect commerce and conspired to do so by means of extortion, in violation of 18 U.S.C. § 1951, all more fully described below.

17. The Senior Officers and Directors operated SIG solely for their personal financial benefit and to the detriment of SIG, BECK and others. The following abuses and criminal acts, all of which constitute racketeering activity, were committed pursuant to their scheme and artifice to

defraud, to obtain money and property and to interfere with commerce by threats:

a. Fraudulent Financial Statements

18. Beginning in or around August of 1987, R. PRUPIS, N. PRUPIS, PERSHES, PAULUS, LIPKIND and BELLEZZA conspired to falsify claims information, for the purpose of issuing fraudulent financial statements to BECK, to the regulators, to the federal government, to First Fidelity Bank, and to the shareholders and creditors of SIG.

19. For example, R. PRUPIS, N. PRUPIS, PERSHES, PAULUS, LIPKIND and BELLEZZA caused SIG to treat claims made by Chief Structures, Inc. ("Chief") as a "workout," where claim payments (an expense) were fraudulently portrayed as "notes receivable" (an asset) and loss reserves for future claim payments were unreported. This resulted in the fraudulent overstatement of the financial condition of SIG and its subsidiaries by millions of dollars.

20. Furthermore, subsequent to Beck's termination, PAULUS, BELLEZZA, N. PRUPIS, OLSTEIN, MEZEY, SPARBER, LITTENBERG, SABATO and LIPKIND conspired to loot SIG's insurance subsidiaries and to materially understate the loss reserve liabilities of SIG and its insurance subsidiaries.

21. Securities owned by the SIG insurance subsidiaries were sold and the funds realized from the sale were improperly diverted to SIG by PAULUS, BELLEZZA, N. PRUPIS, OLSTEIN, MEZEY, SPARBER, LITTENBERG,

SABATO and LIPKIND. These funds were then used to make payments of $1 million to BELLEZZA, $1 million to OLSTEIN, $500,000 to the cousin of N. PRUPIS, Stuart Glasser, and over $4 million to make loan payments to First Fidelity Bank for the purpose of reducing the personal liability of BELLEZZA, N. PRUPIS, LIPKIND, PAULUS, SABATO and OLSTEIN. None of these payments were an obligation of the SIG insurance subsidiaries.

22. To cover-up this looting of SIG's insurance subsidiaries, N. PRUPIS, BELLEZZA, PAULUS, SABATO, LIPKIND, OLSTEIN, MEZEY, SPARBER and LITTENBERG further falsified financial reports of SIG's insurance subsidiaries, by causing the SIG subsidiaries to report funds transferred to SIG as a receivable and thus an asset. The receivables were a sham asset because as these defendants well knew, SIG did not have the resources to repay the subsidiaries.

b. Extortion of Contractors

23. In early 1987, R. PRUPIS, N. PRUPIS, LIPKIND, PAULUS, BELLEZZA and PERSHES conspired to create a separate corporation, CPC, in order to cover up an illegal manner of operating SIG. CPC was set up for the purpose of extorting contractors applying for surety bonds from the SIG insurance subsidiaries. This was done by forcing the contractors to pay illegal fees to CPC to qualify for surety bonds, in addition to the surety bond premium payable to the SIG insurance subsidiaries.

24. Contractors seeking bonds from the SIG insurance subsidiaries were threatened that unless they agreed to pay these illegal fees to CPC, the bonds would not be issued. Over one hundred contractors applying for SIG surety bonds were forced to agree to pay fees to CPC. In most cases, the financial condition of these contractors prevented them from obtaining bonds elsewhere. After retaining CPC, when fee payments due to CPC became past due, the contractors would again be threatened by CPC and the SIG insurance subsidiaries that the bonds would cease being issued unless the illegal payments to CPC were made. Some payments were to be received personally by BELLEZZA and PAULUS. Other extortion payments were paid to CPC. BELLEZZA offered several persons at SIG a percentage of the profits for aiding and abetting his successful attempts to extort money from contractors.

25. Victims included, but were not limited to, Constriction Design Real Estate, Inc. ("CDR"), JJW Construction, Inc. ("JJW") Chief, and McKamish Chesapeake, Inc. ("McKamish")

26. The operations of SIG, CDR, JJW, Chief, and McKamish all affect interstate commerce.

27. CDR, JJW, Chief, and McKamish all reasonably believed that BELLEZZA, PAULUS, R. PRUPIS, N. PRUPIS, PERSHES, and LIPKIND had the ability to carry out their threats.

28. Thus, through wrongful use and attempted wrongful use of threatened and actual force and fear, R. PRUPIS, PERSHES, N. PRUPIS, PAULUS, LIPKIND and BELLEZZA maliciously obtained, threatened to obtain,

attempted to obtain and attempted to threaten to obtain the property of contractors seeking bonds from the SIG insurance subsidiaries. These defendants acted with the intent to extort pecuniary advantage and to compel these contractors to make payments to them and otherwise to act against their will. These defendants had the ability to carry out their threats.

29. To prevent this illegal operation from being exposed to the regulatory authorities, R. PRUPIS, PERSHES, N. PRUPIS, PAULUS, LIPKIND and BELLEZZA conspired to fraudulently hide the illegal nature of these CPC operations from BECK and other officers of SIG by withholding and restricting access to this information.

30. The SIG Underwriting Committee was composed of BELLEZZA as Chairman, N. PRUPIS, PAULUS and SPARBER. BELLEZZA used his position as Chairman of the Underwriting Committee to manipulate underwriting requirements to enable him to extort these and other contractors who had applied to the SIG insurance subsidiaries for surety bonds. N. PRUPIS, PAULUS, R. PRUPIS, LIPKIND and PERSHES were also involved in these illegal acts. Every member of the committee, as well as R. PRUPIS, LIPKIND and PERSHES, knew that BELLEZZA was personally receiving profit participations on bonds that the Underwriting committee had approved.

c. Set Aside Fraud

31. BELLEZZA held a financial interest, contrary to federal law, in Aldrich Construction, Inc. ("Aldrich Construction"), a minority company entitled to the set aside of various government funds. To further this financial

interest, BELLEZZA used his position at SIG to cause bonds to be issued to Aldrich Construction, in spite of the fact that Aldrich Constuction [sic] did not financially qualify for these bonds.

d. Fraudulent Promises to Indemnify

32. To secure the release of bonds for several contractors, BELLEZZA agreed to personally sign agreements to indemnify the SIG insurance subsidiaries for claims and losses on the bonds. At the time BELLEZZA agreed to sign the agreements, he had no intention of doing so. Some of these bonds resulted in claims against the SIG insurance subsidiaries. BELLEZZA later refused to sign the promised general indemnity agreements, which resulted in SIG losses. R. PRUPIS, N. PRUPIS, SPARBER, PAULUS and LIPKIND authorized and ratified BELLEZZA's fraudulent promises. These fraudulent promises to indemnify included, but were not limited to, indemnification agreements with JJW, Aldrich Construction and Chief.

e. Compensation Committee Abuses

33. The Compensation Committee was composed of SABATO as Chairman, BELLEZZA, R. PRUPIS, OLSTEIN and PAULUS. The compensation committee authorized, ratified, ordered and directed payment of numerous salaries and benefits for services that were never rendered, that were unnecessary, and that did not warrant the grossly inflated salaries and benefits paid. The Compensation Committee caused these salaries and benefits to be

paid to cronies and relatives and to others to purchase the loyalty, silence and cooperation of employees who had knowledge of the Senior Officers' and Directors' improper activities, including, without limitation, the improper activities alleged herein. Among those receiving these excessive and unnecessary salaries and benefits were Richard Petigrow, PERSHES, Dennis Megdal, Scott Krantz, Robert Ellenport, Valerie Belleza, Judy Weaver, Wayne Africh, Frank Schembre, Patrick Del Mastro and Jane Hall.

f. Improper and Unnecessary Legal Fees

34. LIPKIND and N. PRUPIS misused their positions as senior officers, directors and as General Counsel to profiteer by causing SIG to retain their law firm, Lampf, Lipkind, Prupis & Petigrow ("Lampf, Lipkind"), for legal services that were unnecessary and at billing rates that were excessive, and further deprived SIG of representation by independent counsel. LIPKIND and N. PRUPIS caused SIG to be given legal advice which was calculated to benefit Lampf, Lipkind first, then R. PRUPIS, and then SIG. Lampf, Lipkind's excessive billings were not subjected to any effective review ($815,876 paid to Lampf, Lipkind in 1986 and 1987), as all bills were approved by the General Counsel's brother, R. PRUPIS.

35. On or about October 26, 1987, N. PRUPIS and LIPKIND used their position as General Counsel to knowingly give blatantly incorrect legal advice to BECK concerning an option resolution, to influence the vote of the Board of Directors on a resolution in which N. PRUPIS and LIPKIND had a substantial personal interest.

g. Attempted Options Fraud

36. R. PRUPIS, BELLEZZA, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, SPARBER and LITTENBERG attempted to provide options to purchase SIG stock to certain individuals. This resolution would have resulted in a massive shift of shareholder's equity from all of the shareholders to only a few, who also were senior officers and directors of SIG. This was prevented principally due to the acts and protestations of BECK.

h. Other Abuses

37. The Senior Officers and Directors caused SIG to pay excessive travel and entertainment expenses for themselves and their spouses, including payments to a limousine company in which N. PRUPIS, LIPKIND and other Lampf, Lipkind partners held a financial interest.

38. Over $318,000 was spent on luxury automobiles for certain persons at SIG.

39. R. PRUPIS and others who were exercising control over underwriting and claims, accepted gifts from client contractors and their agents and in some instances eased conditions imposed on those contractors by SIG. These gifts included items valued in excess of $1,000.

40. R. PRUPIS and others conspired with a representative of an insurance ageny, [sic] Sun State Insurance Agencies, Inc. ("Sun State"), to defraud Sun State by withholding $137,874 of commissions that should have been paid to Sun State. At R. PRUPIS' direction, these

funds were diverted by SIG to a new entity, later established by the representative.

41. SIG gave and held mortgages for certain senior officers and directors. R. PRUPIS sold his condominium to SIG without Board approval.

B. RACKETEERING ACTIVITY DIRECTED AGAINST BECK

42. The defendants, through their scheme and artifice, directly injured BECK and caused him to suffer damages, as set out more fully below.

a. Termination "For Cause"

43. BECK first became associated with SIG on August 22, 1983, pursuant to an Employment Agreement, in the position of President and Director of SIG. This Employment Agreement was for a period of five years. A later Employment Agreement (attached as Exhibit "A") resulted in an eight year extension of BECK's employment beyond the 1983 Employment Agreement.

44. Throughout the course of his employment with SIG, BECK sought to maintain a professional attitude; observe the insurance industry standards for ethics and legality; cooperate with regulators consistent with his responsibility as a Director and President; and generally to maintain throughout SIG a high degree of compliance with those obligations of the company to its shareholders, its clients, the industry and to conduct the business of SIG in a manner consistent with proper management.

45. At various times during his employment, BECK became aware of activities by the officers and directors and employees of SIG which were inconsistent with industry standards for proper management in the operation of SIG and, in many cases, violated various insurance regulations and criminal statutes. He immediately brought these problems to the attention of appropriate persons at SIG, including R. PRUPIS, N. PRUPIS, LIPKIND, BELLEZZA, PAULUS, MEZEY, OLSTEIN and others, as well as various government regulators. On some occasions, the problems were corrected. In other instances, the Senior Officers and Directors resisted BECK, despite the impropriety of the actions, overruled Beck and discouraged him and prevented him from further pursuing these problems.

46. Beginning in or around August 1986, the Senior Officers and Directors began to "neutralize" BECK in order to inhibit BECK's authority and power to prevent and correct abuses by the Senior Officers and Directors and others for their personal benefit and to the detriment of SIG, its shareholders and its creditors, while at the same time preventing BECK from becoming aware of other abuses and other criminal activities of the Senior Officers and Directors.

47. Despite the actions of the Senior Officers and Directors, BECK continued to object to improprieties. BECK was in a position to expose their misconduct and was therefore a threat to their continued improper management of SIG for their personal benefit.

48. On or about April 11, 1988, the Senior Officers and Directors began to realize that influential and knowledgeable outside parties were starting to scrutinize their activities. They began to realize that if they continued on their present course of dealing with SIG, using the corporation as if it were their own personal pocketbook, they would face potential liability with the insurance regulators, shareholders, and Securities and Exchange Commission, as well as potential criminal liability.

49. For example, BECK was contacted by phone by Donald Hartsfield, Director of Insurance Company Regulations, Florida Department of Insurance, on May 5, 1988. BECK was asked if R. PRUPIS was going to be terminated, and if the company had understated its loss reserves by $1 million or more. BECK reported to Hartsfield that it appeared that the company had understated the loss reserves by an amount in excess of $1 million. BECK also told him that Deloitte, Haskins & Sells was currently looking into the question of the understatement of loss reserves, and should have an answer in about a week. This conversation was immediately reported by BECK to BELLEZZA. BELLEZZA informed BECK that he did not like the fact that BECK had told the truth to the Department of Insurance, and in the future he was not to talk to any regulators unless another director was present. BECK told BELLEZZA that he "would have no part in putting out false financial information." BECK also told BELLEZZA that he "would rather see the company go belly up than to be involved in the falsification of financial data."

50. Thus, the Senior Officers and Directors were especially concerned about BECK revealing their misdeeds and, therefore, wanted to terminate his employment with SIG. Because of the Employment Agreement, however, the directors could not terminate BECK without cause, without the enterprise incurring substantial liability for money damages for breach of contract.

51. Consequently, the Senior Officers and Directors engaged in systematic efforts to fraudulently create causes for BECK's termination, by portraying BECK as an ineffective officer, by holding him responsible for actions of irresponsible management over which he had no authority or control, and by holding him accountable for failures of senior management despite the fact that they were outside his area of responsibility. These baseless accusations were made in order to improperly substantiate a termination for cause and to shift the blame for the Senior Officers' and Directors' illegal conduct. BECK would no longer be able to report improper activities, and, moreover, could be used as a scapegoat for whatever illegal activities came to light.

52. In order to accomplish this, the Senior Officers and Directors engaged in a conspiracy which included FIREMARK. They conspired to have FIREMARK write a false and misleading report on "the problems at SIG" (the "FIREMARK report," a copy of which is attached as Exhibit "B"), blaming BECK for the improper activities and their consequences which they well knew were not his responsibility and could not be attributed to him.

53. The Senior Officers and Directors knew and intended that any reader of the report would come to the

incorrect conclusion that the charges of mismanagement revealed in the FIREMARK report were BECK's fault.

54. The Senior Officers and Directors fraudulently created causes for BECK's termination and thereby prevented BECK from exposing the wrongs which occurred at SIG and discredited BECK so that no one would believe BECK'S charges.

55. BELLEZZA, R. PRUPIS, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, SPARBER and LITTENBERG terminated Beck for false and fraudulently created "causes" which included, but were not limited to, racism, instigation of charges of sexual harassment, dishonesty, unauthorized release of information to the regulators, incompetence, misstatement of financial information, failure to disclose information to the Board of Directors, failure to control actions of R. PRUPIS and others, failure to control travel and entertainment expenses, failure to control SIG spending, extortion of fees from contractors, embezzlement of funds, accepting gifts and monies from contractors, accepting kickbacks from vendors, use of drugs, abuse of expense accounts, lack of general management ability, sharing proceeds of claim payments with claimants, lack of concern for SIG's money, alteration of accounting records, and withholding knowledge of claims and losses.

56. In response to all of these false and fraudulent charges, BECK maintained and still maintains that he was entirely innocent.

57. Citing these false and fraudulently created causes, BELLEZZA, LIPKIND, N. PRUPIS, SABATO,

PAULUS, OLSTEIN, MEZEY, SPARBER and LITTENBERG caused BECK to be officially notified of his permanent dismissal from SIG by letter on May 17, 1988 (Exhibit "C").

58. BECK never consented to either his removal or termination.

59. As a result of this fraudulent conduct of the Senior Officers and Directors, BECK has been injured in that he has been deprived of the money due and owing to him under his employment contract with SIG.

60. As a further result, BECK has been forced to hire attorneys and expend considerable attorney's fees.

b. Personal Guarantees

61. As detailed in paragraphs 18 and 19, R. PRUPIS, N. PRUPIS, PERSHES, PAULUS, LIPKIND and BELLEZZA, acting individually and in concert with each other and others, falsified SIG records and financial statements, resulting in a material overstatement of the shareholders' equity and net income of SIG and its subsidiaries.

62. BELLEZZA, R. PRUPIS, N. PRUPIS, PAULUS, LIPKIND, MEZEY, PERSHES and SPARBER all knew of these falsifications at the time they were made, and each of them consented to and ratified the making of these falsifications.

63. In or around November and December of 1987, BELLEZZA and N. PRUPIS, acting in concert with R. PRUPIS, PAULUS, LIPKIND, MEZEY, PERSHES and

SPARBER, applied, on behalf of SIG, for a $7.5 million loan from First Fidelity Bank. In their application for this loan, these defendants utilized the fraudulently created financial statements and fraudulently created financial estimates, all of which greatly overstated the financial condition of SIG and its subsidiaries.

64. This loan was to provide interim capital for a SIG subsidiary, bridging a planned securities offering, which would, in turn, allow SIG to issue more bonds to a wider group of contractors. The loan thus was designed to allow the Senior Officers and Directors to broaden the base of their illegal conduct.

65. The Senior Officers and Directors sought to have BECK, who was then still the president of SIG, personally guarantee the loan.

66. To induce BECK to enter into this personal guarantee, the Senior Officers and Directors, through false and misleading statements and omissions, caused BECK to believe that his employment contract would continue to be honored. However, the Senior Officers and Directors had no intention of honoring BECK's contract as they had already embarked on their criminal schemes and their associated scheme of creating fraudulent causes for BECK's termination and creating a scapegoat for their illegal conduct so that they could continue their racketeering activity.

67. To further induce BECK to enter into this personal guarantee, the Senior Officers and Directors, utilizing the fraudulent financial information, caused BECK to believe that SIG was in a much better financial position than it actually was.

68. Relying on the fraudulent financial information and the representations that BECK's employment status would remain unchanged, BECK executed a personal guarantee agreement with First Fidelity Bank (Exhibit "D") BECK's reliance was reasonable.

69. Had BECK known of the true financial condition of SIG and its subsidiaries or of the illegal manner in which the Senior Officers and Directors were operating SIG or of the Senior Officers' and Directors' plans to fraudulently create causes for BECK's termination, BECK would not have personally guaranteed the First Fidelity Bank loan.

70. The looting of SIG and its subsidiaries by the Senior Officers and Directors, as more fully detailed in paragraphs 11 to 41, resulted in SIG defaulting on the First Fidelity Bank loan.

71. Furthermore, on or about December 30, 1987, SIG pledged shares of common stock of the SIG subsidiaries as collateral for this First Fidelity Bank loan. As a result of the illegal conduct of the Senior Officers and Directors, this collateral became worthless. If not for this looting and profiteering, the collateral would have been sufficient to satisfy the loan. Because the collateral is now worthless, however, BECK's personal guarantee has been triggered.

72. First Fidelity Bank has sued BECK based on his personal guarantee which the above-named parties fraudulently induced BECK to execute.

73. BECK has been forced to hire attorneys in defense of this suit by First Fidelity Bank and has expended considerable attorney's fees.

c. <u>Unsecured Loan</u>

74. On or about August 11, 1986, BECK made an unsecured loan to SIG in the amount of $150,000.

75. To induce BECK to extend this loan, BELLEZZA, N. PRUPIS, LIPKIND, PAULUS, SPARBER, OLSTEIN, MEZEY and R. PRUPIS, through false and misleading statements and omissions, caused BECK to believe that his employment contract would continue to be honored. However, these defendants had no intention of honoring BECK's contract as they had already embarked on their criminal schemes and their associated scheme of creating fraudulent causes for BECK's termination and creating a scapegoat for their illegal conduct so that they could continue their racketeering activity.

76. Had BECK known of these defendants' and others' plans to fraudulently create causes for BECK's termination, and of their racketeering activity, BECK would not have extended this loan to SIG.

77. As a result of the illegal conduct of the Senior Officers and Directors, more fully detailed in paragraphs 11 to 41, SIG became unable to honor its obligation to repay the loan. BECK was thus directly injured by the illegal looting and profiteering.

78. As a further result, BECK has been forced to hire attorneys and expend considerable attorney's fees.

d. Predicate Acts

79. In December of 1987, R. PRUPIS caused the life insurance application for Allen Aldrich, the president of Aldrich Construction, to be mailed from SIG to the insurer in California.

80. In or around December of 1987, Allen Aldrich signed and mailed the life application and his check to SIG from New Jersey to Florida.

81. Shortly thereafter, SIG mailed Mr. Aldrich's life application and his check to the life insurance company in California.

82. In or around April of 1988, the life insurance company mailed the life insurance policy insuring Mr. Aldrich to SIG from California to Florida.

83. Shortly thereafter, SIG mailed a copy of the life insurance policy to BELLEZZA.

84. On or about June 22, 1988, N. PRUPIS mailed Linda Burton a letter from New Jersey to Florida in which he requested her to sign a statement which he knew to be false, stating that she had never told anyone that the McKamish bonds had been approved by SIG's Board.

85. On or about November 11, 1988, ID&T Drywall, Inc. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

86. On or about November 11, 1988, All Bright Electric, Inc. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was

threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

87. On or about November 11, 1988, Shoemaker Plumbing Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

88. On or about November 11, 1988, SCR Drywall, Inc. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

89. On or about December 20, 1988, C.I.P.I. Corp. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

90. On or about December 20, 1988, Agmilu & Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

91. On or about December 20, 1988, Ahmad Construction Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

92. On or about December 20, 1988, AAV Construction Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was

threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

93. On or about December 20, 1988, Dale Construction Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

94. In or around April of 1986, BELLEZZA contacted Linda Burton via telephone in Florida from New Jersey, and told her to issue bonds for Aldrich Construction, stating that he would be financially responsible for any losses resulting from the bonds.

95. In 1987, BELLEZZA from New Jersey telephoned R. PRUPIS in Florida, and discussed lending R. PRUPIS the money to pay off the loan on R. PRUPIS' condominium to SIG.

96. Also in 1987, BELLEZZA wired $75,000 from New Jersey to Capital Bank for R. PRUPIS.

97. In or around May of 1987, BELLEZZA telephoned Linda Burton in Florida from New Jersey, to discuss the fee amounts which JJW would pay.

98. In or around July of 1987, BELLEZZA and Walsh had a telephone conversation (New Jersey to Florida) in which they discussed the fee which would be payable by JJW to CPC, in addition to the bond premium, to enable JJW to secure the Wellesley Inn Miami Lakes bond.

99. In or around July of 1987, BELLEZZA, from New Jersey, called Terry Westling, in Florida, and told her to work with his New Jersey attorney, Elliot Kramer of

Lampf, Lipkind, to draft the new agreement for execution by JJW.

100. In or around July of 1987, Ms. Westling telecopied copies of the original agreement to Kramer in New Jersey.

101. In or around July of 1987, Mr. Kramer amended the original agreement, and on or about that same day telecopied the draft back to Ms. Westling in Florida.

102. In or around July of 1987, Ms. Westling had the draft retyped, and telecopied copies to BELLEZZA and Kramer for their approval.

103. In or around July of 1987, Mr. Kramer told Ms. Westling over the telephone (New Jersey to Florida) that the newly drafted agreements were correct.

104. In or around July of 1987, BELLEZZA directed Ms. Westling via telephone, from New Jersey to Florida, to call Walsh and tell him that he could come to the CPC office and execute the agreement.

105. In or around September of 1987, Linda Burton, from Florida, informed BELLEZZA, in New Jersey, via telephone, that she needed his signature on the JJW general indemnity agreement.

106. In or around September of 1987, BELLEZZA, in New Jersey, discussed with R. PRUPIS, in Florida, via telephone, the terms of the September 10, 1987 agreement with Chief and the terms of BELLEZZA's agreement to indemnify Chief.

107. On or about September 21, 1987, BELLEZZA sent R. PRUPIS by telecopy, from New Jersey to Florida, a

copy of material prepared by Smith Barney to value SIG securities for a debt to equity exchange offering.

108. On or about December 8, 1987, N. PRUPIS, from New Jersey, telephoned Lynn Day, in Florida, and directed him to telecopy SIG's financial estimates for December 31, 1987. These estimates contained the fraudulent financial information described in paragraphs 18 and 19.

109. On or about December 8, 1987, Lynn Day, as directed, telecopied, from Florida, the financial estimates to N. PRUPIS in New Jersey.

110. In or around December of 1987, BELLEZZA from New Jersey, told Linda Burton, in Florida, via telephone, that he would post a $100,000 letter of credit to satisfy the requirements of a contractor that had applied for bonds to SIG, Cox & Palmer, Inc., for a fee to BELLEZZA, personally, of $40,000.

111. In or around December of 1987, R. PRUPIS, in Florida, and N. PRUPIS, in New Jersey, spoke via telephone regarding the First Fidelity Bank loan and the personal guarantees.

112. In 1987 and until May of 1988, unnecessary limousine reservations were made via telephone calls from Florida for SIG personnel traveling to New Jersey. Teresa Waldron, acting at the direction of N. PRUPIS and R. PRUPIS, made at least one of these reservations with Livingston Five Star Limousine.

113. In or around January of 1988, N. PRUPIS and BELLEZZA, from New Jersey, telephoned R. PRUPIS, in Florida, and discussed and approved the sale of R.

PRUPIS' house to Linda Burton, with the accompanying mortgage from SIG.

114. All Aldrich bonds were approved via telephone or telecopy by BELLEZZA in New Jersey to SIG employees in Florida, including BELLEZZA's approval on the Aldrich bond to the County of Essex, New Jersey on or about February 24, 1988.

115. In or around February of 1988, BELLEZZA, in New Jersey, instructed Theresa Westling, in Florida, via the telephone, to get Valerie Bellezza's check out.

116. In or around April of 1988, BELLEZZA, from New Jersey, instructed Linda Burton, in Florida, via the telephone, that the McKamish bonds were to be approved, but he wanted a "piece of the action."

117. In or around April of 1988, BELLEZZA approved the McKamish bonds in a telephone conversations [sic] from New Jersey to Linda Burton, in Florida.

118. In or around April of 1988, PAULUS approved the McKamish bonds in a telephone conversations [sic] from New Jersey to Linda Burton, in Florida.

119. On or about April 18, 1988, Carl Shible, in Florida, received a telephone call from MEZEY, in New Jersey, who told Shible that the New Jersey directors had been meeting without N. PRUPIS and discussing the excessive spending of R. PRUPIS.

120. On or about April 18, 1988, Shible, in Florida, received a telephone call from OLSTEIN, in New Jersey, who told Shible that the New Jersey directors had been meeting without N. PRUPIS and discussing the excessive spending of R. PRUPIS.

121. On or about April 19, 1988, Shible, in Florida, received a telephone call from MEZEY, from New Jersey. MEZEY told Shible that BELLEZZA and PAULUS wanted to tell N. PRUPIS that they were concerned about the activities of R. PRUPIS. MEZEY asked Shible to ask BECK if Robert A. Beck, Sr. would serve on the Board. All of these phone calls to Shible described in paragraphs 119 to 121 were designed to fraudulently lead Shible and Beck to believe that the improper activity at SIG would be corrected.

122. On or about April 21, 1988, BECK and Shible, from Florida, talked by telephone with MEZEY, in New Jersey. MEZEY told BECK and Shible that at the recent directors meeting, it had been decided to engage a consulting firm to examine the operations of SIG.

123. On or about May 1, 1988, BELLEZZA, in New Jersey, telephoned BECK, in Florida. BELLEZZA told BECK that he had become convinced that R. PRUPIS should be removed from his position and asked BECK to keep things calm for the next two weeks. BELLEZZA thus fraudulently led BECK to believe that the improper activities at SIG would be corrected and that BECK would remain. This was done in an attempt to prevent BECK from talking to the authorities or the press, until he could be discredited and neutralized.

124. In or around June of 1988, N. PRUPIS, from New Jersey, called Linda Burton, in Florida, and asked her to sign a false statement addressed to LIPKIND to the effect that the directors had not approved the McKamish bond request. In fact, BELLEZZA and PAULUS had approved the request. This request was part of an effort

to cover up BELLEZZA's manipulation of underwriting requirements to extort money from contractors seeking bonds from the SIG insurance subsidiaries.

125. From in or around December of 1987 until in or around July of 1988, BELLEZZA, R. PRUPIS, and PERSHES extorted CDR.

126. From in or around May of 1987 until in or around the fall of 1988, BELLEZZA, PAULUS, R. PRUPIS, N. PRUPIS, PERSHES and LIPKIND extorted JJW.

127. From in or around the summer of 1987 until in or around July of 1988, BELLEZZA, PAULUS, R. PRUPIS, N. PRUPIS, and PERSHES extorted Chief.

128. In or around the spring of 1988, BELLEZZA, PAULUS, R. PRUPIS, N. PRUPIS, PERSHES and LIPKIND extorted McKamish.

COUNT I

VIOLATION OF 18 U.S.C. §1962(c) BY R. PRUPIS, BELLEZZA, PERSHES, SPARBER, LIPIUND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY and LITTENBERG

129. The allegations of paragraphs 1 through 128 are realleged and reaverred as though more fully set forth herein.

130. R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, PERSHES, and LITTENBERG committed the above-described indictable racketeering acts – mail fraud, wire fraud and extortion – all of which constitute "racketeering activity" within the definition of 18 U.S.C. § 1961(1).

131. All of these racketeering acts occurred within 10 years of each other.

132. The multiple acts of racketeering activity by the Senior Officers and Directors were interrelated, formed part of a common and continuous pattern of fraudulent schemes, were perpetrated with the same or similar intent, were committed by the same or similar methods, and had the same or similar victims. These activities were not isolated incidents and, collectively, constitute a "pattern of racketeering activity" as defined in 18 U.S.C. § 1961(5).

133. By committing and agreeing to commit, over a period of less than 10 years, two or more acts of mail fraud, wire fraud, and extortion, as set forth in paragraphs 11 to 128, all in furtherance of a scheme and artifice to defraud BECK, SIG shareholders and creditors, regulators and other entities and persons, R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, PERSHES and LITTENBERG have engaged, directly or indirectly, in the conduct of the enterprise's affairs through a pattern of racketeering activity in violation of 18 U.S.C. § 1962(c).

134. By reason of R. PRUPIS', BELLEZZA's, SPARBER's, LIPKIND's, N. PRUPISI, SABATO's, PAULUS', OLSTEIN's, MEZEY's, PERSHES' and LITTENBERG's violations of 18 U.S.C. § 1962(c), BECK has been injured in his business and property, as more fully set forth in paragraphs 42 through 78.

135. As a result of the Senior Officers' and Directors' racketeering activity, BECK has been forced to retain attorneys and expend considerable attorney's fees.

WHEREFORE, BECK demands three times the damages he has sustained, the costs of this litigation, including reasonable attorneys' fees, and any other relief this Court deems just.

COUNT II

VIOLATION OF §1962(a) BY PERSHES R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY AND LITTENBERG

136. The allegations of paragraphs 1 through 132 and 135 are realleged and reaverred as though more fully set forth herein.

137. R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, PERSHES and LITTENBERG have received income derived directly and indirectly from the pattern of racketeering activity described in paragraphs 11 to 128, in that each received salaries, dividends, commissions and other fees as a result of their participation in the racketeering activity. Each used or invested, directly and indirectly, all or a part of that income, and the proceeds of that income to establish and operate their enterprise.

138. By reason of R. PRUPIS', BELLEZZA's, SPARBER's, LIPKIND's, N. PRUPISI, SABATO's, PAULUS', OLSTEIN's, MEZEY's, PERSHES' and LITTENBERG's violations of 18 U.S.C. § 1962(a), BECK has been injured in his business and property, as more fully set forth in paragraphs 42 through 78.

WHEREFORE, BECK demands three times the damages he has sustained, the costs of this litigation, including reasonable attorneys' fees, and any other relief this Court deems just.

COUNT III

VIOLATION OF §1962(b) BY PERSHES, R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY AND LITTENBERG

139. The allegations of paragraphs 1 through 132 and 135 are realleged and reaverred as though more fully set forth herein.

140. Through the pattern of criminal activity described in paragraphs 11 to 128, R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, PERSHES and LITTENBERG acquired and maintained, directly and indirectly, an interest in and control of their enterprise.

141. By reason of R. PRUPIS', BELLEZZA's, SPARBER's, LIPKIND's, N. PRUPIS', SABATO's, PAULUS', OLSTEIN's, MEZEY's, PERSHES' and LITTENBERG's violations of 18 U.S.C. § 1962(b), BECK has been injured in his business and property, as more fully set forth in paragraphs 42 through 78.

WHEREFORE, BECK demands three times the damages he has sustained, the costs of this litigation, including reasonable attorneys' fees, and any other relief this Court deems just.

COUNT IV

VIOLATION OF §1962(d) BY R. PRUPIS, PERSHES, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, LITTENBERG AND FIREMARK

142. The allegations of paragraphs 1 through 141 are realleged and reaverred as though more fully set forth herein.

143. R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, LITTENBERG, PERSHES and FIREMARK agreed and conspired among themselves and with others to engage, directly or indirectly, in the conduct of the enterprise's affairs through a pattern of racketeering activity; to use income or the proceeds of income derived from the pattern of racketeering activity to establish and operate the enterprise; and to acquire and maintain an interest in and control of the enterprise. By so conspiring, each of these persons violated § 1962(d).

144. BECK's termination and/or the fraudulent creation of causes were overt acts done pursuant to the racketeering conspiracy of R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, PERSHES, MEZEY, LITTENBERG and FIREMARK.

145. Furthermore, by reason of R. PRUPIS', BELLEZZA's, SPARBER's, LIPKIND's, N. PRUPIS', SABATO's, PAULUS', OLSTEIN's, MEZEY's, PERSHES' and LITTENBERG's violations of § 1962(d), BECK has been injured in his business and property, as more fully set forth in paragraphs 42 through 78.

WHEREFORE, BECK demands three times the damages he has sustained, the costs of this litigation, including reasonable attorneys' fees, and any other relief this Court deems just.

COUNT V

COMMON LAW FRAUD BY R. PRUPIS, BELLEZZA, PERSHES, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, LITTENBERG AND FIREMARK

146. The allegations of paragraphs 1 through 78 are realleged and reaverred as though more fully set forth herein.

147. BECK was deprived of the earnings which were due him under his employment contract due to the fraudulent misrepresentations of R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, PERSHES, MEZEY, LITTENBERG and FIREMARK.

148. These persons knew that these representations were false and that their omissions were materially misleading at the time of making them. They intended BECK and others to rely on these misrepresentations and omissions. The reliance on these misrepresentations was reasonable and justifiable under the circumstances.

149. All of the misrepresentations and nondisclosures were material.

150. As a direct and proximate result of the foregoing, BECK has been severely injured.

151. The frauds perpetrated were committed in an outrageous manner and with malice or reckless indifference toward BECK's rights.

WHEREFORE, BECK demands judgment for the damages he has sustained, the costs of this litigation, including reasonable attorneys' fees, punitive damages and any other relief this Court deems just.

COUNT VI

NEGLIGENCE BY R. PRUPIS, BELLEZZA, PERSHES, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY, LITTENBERG AND FIREMARK

152. The allegations of paragraphs 1 through 78 and 147 through 150 are realleged and reaverred as though more fully set forth herein.

153. BECK was deprived of the earnings which were due him under his employment contract due to the negligent misrepresentations of R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, PERSHES, MEZEY, LITTENBERG and FIREMARK. These persons knew or should have known or were negligent in not knowing that these representations were false.

WHEREFORE, BECK demands judgment for the damages he has sustained, the costs of this litigation, and any other relief this Court deems just.

COUNT VII

FRAUDULENT INDUCEMENT BY R. PRUPIS, BELLEZZA, PERSHES, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY and LITTENBERG

154. The allegations of paragraphs 1 through 78 are realleged and reaverred as though more fully set forth herein.

155. As a result of the fraudulent misrepresentations of R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, PERSHES, MEZEY, and LITTENBERG, acting individually and in concert with each other and others, BECK was fraudulently induced to enter into the First Fidelity Bank loan guarantee.

156. These persons knew that these representations were false and that their omissions were materially misleading at the time of making them. They intended BECK and others to rely on these misrepresentations and omissions. The reliance on these misrepresentations was reasonable and justifiable under the circumstances.

157. All of the misrepresentations and nondisclosures were material.

158. As a direct and proximate result of the foregoing, BECK has been severely injured.

159. The frauds perpetrated were committed in an outrageous manner and with malice or reckless indifference toward BECK's rights.

WHEREFORE, BECK demands judgment for the damages he has sustained, the costs of this litigation,

including reasonable attorneys' fees, punitive damages and any other relief this Court deems just.

COUNT VIII

NEGLIGENCE BY R. PRUPIS, BELLEZZA, PERSHES, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, MEZEY and LITTENBERG

160. The allegations of paragraphs 1 through 78 and 155 through 158 are realleged and reaverred as though more fully set forth herein.

161. As a result of the negligent misrepresentations of R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, SABATO, PAULUS, OLSTEIN, PERSHES, MEZEY, and LITTENBERG, acting individually and in concert with each other and others, BECK was induced to enter into the First Fidelity Bank loan guarantee. These individuals knew or should have known or were negligent in not knowing that these representations which they had made were false.

WHEREFORE, BECK demands judgment for the damages he has sustained, the costs of this litigation, and any other relief this Court deems just.

COUNT IX

FRAUD BY R. PRUPIS, BELLEZZA, MEZEY, LIPKIND, OLSTEIN, SPARBER, N. PRUPIS, and PAULUS

162. The allegations of paragraphs 1 through 78 are realleged and reaverred as though more fully set forth herein.

163. As a result of the fraudulent misrepresentations of R. PRUPIS, BELLEZZA, MEZEY, LIPKIND, OLSTEIN, SPARBER, N. PRUPIS, and PAULUS, acting individually and in concert with each other and others, BECK was fraudulently induced to extend the $150,000 loan to SIG.

164. These defendants knew that these representations were false and that their omissions were materially misleading at the time of making them. They intended BECK and others to rely on these misrepresentations and omissions. The reliance on these misrepresentations was reasonable and justifiable under the circumstances.

165. All of the misrepresentations and disclosures were material.

166. As a direct and proximate result of the foregoing, BECK has been severely injured.

167. Furthermore, the looting and racketeering of the Senior Officers and Directors prevented SIG from repaying its loan.

168. The frauds perpetrated were committed in an outrageous manner and with malice or reckless indifference toward BECK's rights.

WHEREFORE, BECK demands judgment for the damages he has sustained, the costs of this litigation, including reasonable attorneys' fees, punitive damages and any other relief this Court deems just.

COUNT X

NEGLIGENCE BY R. PRUPIS, BELLEZZA, MEZEY, LIPKIND, OLSTEIN, SPARBER, N. PRUPIS, and PAULUS

169. The allegations of paragraphs 1 through 78 and 163 through 167 are realleged and reaverred as though more fully set forth herein.

170. As a result of the negligent misrepresentations of R. PRUPIS, BELLEZZA, SPARBER, LIPKIND, N. PRUPIS, PAULUS, OLSTEIN, and MEZEY, acting individually and in concert with each other and others, BECK was induced to extend the $150,000 loan to SIG. These individuals knew or should have known or were negligent in not knowing that these representations which they had made were false.

WHEREFORE, BECK demands judgment for the damages he has sustained, the costs of this litigation, and any other relief this Court deems just.

DEMAND FOR JURY TRIAL

ROBERT A. BECK, II, demands jury trial as to all issues so triable as of right by jury.

Respectfully submitted,

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By: Jules L. Rossi
Jules L. Rossi

VERIFICATION

I ROBERT A. BECK, II, verify that the allegations contained in this Crossclaim and Third Party Claim are true to the best of my knowledge

/s/ Robert A. Beck – II
ROBERT A. BECK – II

ACKNOWLEDGEMENT

STATE OF FLORIDA) ss

COUNTY OF BROWARD) ss

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgements, personally appeared ROBERT A. BECK, II, to me known to be the person described in and who executed the foregoing instrument, and acknowledging before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 28th day of May 1990

/s/ (signature of notary)

My Commission Expires: NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. DEC. 18, 1992
BONDED THRU GENERAL INS. UNO.

EXHIBIT A

EMPLOYMENT AGREEMENT

Agreement made this 28th day of June, 1986 by and between ROBERT A. BECK, II, residing at 18201 Daybreak Drive, Boca Raton, Florida 33434 ("Employee") and SOUTHEASTERN INSURANCE GROUP, INCORPORATED, a Florida corporation having its principal office at 1620 West Oakland Park Boulevard, Suite 200, Fort Lauderdale, Florida (the "Employer").

RECITALS

WHEREAS, Employee is a Director and President of Employer; and

WHEREAS, Employee owns more than twenty (20%) percent of the Class A Voting Stock of the Employer, which class of stock presently enjoys the power to elect five of the seven directors of the Employer; and

WHEREAS, the parties have an existing employment relationship and desire to make certain modifications to same, and to set forth the terms of their employment relationship herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties agree as follows:

1. *Employment.* Employer hereby employs Employee and Employee hereby accepts employment from Employer to serve as President of Employer pursuant to the terms and conditions of this Agreement.

2. *Term. The term of employment shall commence on the Effective Date and end on the fifth (5th) anniversary thereof, unless sooner terminated pursuant to the provisions of Section 7.1 hereof; PROVIDED, HOWEVER, that unless this Agreement has been earlier terminated as provided in Section 7.1 hereof, the Employee shall have the right upon written notice to the Employer given not more than twelve (12) months nor less than six (6) months prior to the fifth anniversary of the Effective Date to extend this Agreement for an additional period of five (5) years commencing on the fifth (5th) anniversary of the Effective Date.*

3. *Duties, Extent of Services and Restrictions.*

3.1 Except as otherwise specifically permitted by Section 3.3 hereof, the Employee shall devote his entire business time, attention and energies to the business of the Employer. The Employee shall have the following duties:

(a) The primary responsibility for the duties of the office of President as set forth in the By-laws of Employer, the development and preparation of the budgets and financial forecasts of the Employer, the monitoring of the financial performance of the Employer, the licensing of Employer's subsidiaries in various jurisdictions and the compliance by Employer and its subsidiaries of all material laws, rules and regulations affecting its and their business; and

(b) The performance of such other, additional and/or different reasonable duties as shall be assigned or delegated to him by the Directors of the Employer.

3.2 During the term of this Agreement and in the performance of his duties hereunder, the Employee shall:

(a) Abide by the reasonable rules and regulations of the Employer as established from time to time by the Directors of the Employer;

(b) Obey all requirements and provisions of the By-laws of the Employer adopted as of the Effective Date and all other reasonable requirements and provisions of By-laws of the Employer adopted subsequent to the Effective Date; and

(c) Not violate the provisions of Article 8 of this Agreement.

3.3 During the term of this Agreement, the Employee may engage in business activities other than as an employee of the Employer if, but only if, he complies in full with the following terms and conditions:

(a) Such other business activity does not cause any conflicts or potential conflicts with the business of the Employer or the Employee's duties hereunder;

(b) Such other business activity does not involve any material time effort on the part of the Employee;

(c) Such other business activity does not involve any corporate opportunity of the Employer (unless the Employer, by its Board of Director, shall in writing waive same); and

(d) The Employee has obtained the prior written consent of the Board of Directors of the Employer for such other business activity.

3.4 Section 3.3 shall not be construed as preventing the Employee from investing his assets in such form or manner as will not require any time or services on his part in the operation of the affairs of the entities in which such investments are made.

3.5 In the event that the Employee is engaged in a business activity with the approval of the Employer, in accordance with the provisions of Section 3.3 hereof, and at any time after the commencement of such engagement, a conflict or potential conflict should arise between such business activity, and the Employer or the Employee's duties hereunder, or if for some other reasons which are in the best interests of the Employer (*i.e.*, the Employee is devoting more time to such other business activity than originally contemplated) the Board of Directors of the Employer decides that the Employee should cease involving himself with, and/or divest himself of any interest in,

such other business, then the Employer may direct the Employee to cease such involvement and/or divest himself of such interest, and the Employee shall as expeditiously as possible, cease such involvement and/or divest himself of such interest.

3.6 It is expressly agreed that, subject to Section 3.5 hereof, Employee shall be permitted to own, without limitation, actually or beneficially, capital stock or other equity interests in R.L.R. Concepts, Inc. and Prupis, Beck and Warder, Inc., both of which are Florida corporations, provided such businesses limit their underwriting and sales activities solely to life and health insurance.

4. *Compensation.*

4.1. *As compensation while employed hereunder, Employee shall be paid, in the manner hereinafter set forth by Employer a minimum annual salary of ONE HUNDRED THIRTY-TWO THOUSAND ($132,000) DOLLARS.*

4.2 In addition to the minimum annual salary [set] forth above, Employer's Board of Directors, in conjunction with the Employee, shall conduct an annual performance review of the Employee and the Employee may, but need not necessarily, receive a bonus or an increase in his minimum annual salary or both, in such amount(s) as the Board of Directors in its sole discretion may decide is appropriate.

4.3 The Employee's salary shall be paid in twelve (12) monthly installments, from which shall be deducted income

taxes, social security taxes, and such other and similar payroll deductions as laws now or hereafter in force may require.

4.4 In addition to the foregoing annual salary, Employer further agrees, at its option, to either (a) furnish Employee an automobile and all expenses related to its operation and maintenance, or (b) with respect to an automobile furnished by Employee, reimburse Employee for all operating expenses of such automobile plus an allowance for depreciation of FOUR HUNDRED ($400) DOLLARS per month.

4.5 The employee shall be reimbursed by the Employer for reasonable business expenses properly incurred and documented by him in performing his employment duties hereunder.

4.6 The Employee shall use his reasonable best efforts to purchase, at rates substantially comparable to standard rates, one or more policies of disability income insurance for his benefit, which policies will, after a six month waiting period, provide him with benefits, in the aggregate, equal to an amount not in excess of his then current compensation under section 4.1. Upon such purchase, and subject to such reasonable requirements as Employer may request (*e.g.* verification of premium, terms and benefits) and during the term of this Agreement, the Employer shall either reimburse Employee for such premiums or pay such premiums directly to the insurer.

4.7 During the term of this Agreement, the Employee and his immediate family shall be entitled to participate in any "Employee Health Benefit Plan" maintained by Employer for which he and they are eligible and in accordance with the terms of such plan or plans.

For purposes hereof, an "Employee Health Benefit Plan" is a disability, hospitalization, major medical, life insurance or other similar plan.

4.8 During the term of the Employee's employment, the Employer shall reimburse the Employee for the premiums (based upon standard rates only) for one year renewable term life insurance purchased by Employee in an amount not to exceed the difference between $1.5 million and the face amount of life insurance, if any, provided by Employer pursuant to Section 4.7 hereof.

4.9 The liability of Employer pursuant to Sections 4.6 and 4.8 shall be limited solely to the reimbursement of Employee of premiums. The Employer shall have no liability for the failure of the Employee or Employer to obtain any such policies or for any insurer to pay any benefits. The Employer shall have no liability for the cancellation of a policy due to a late payment or non-payment of premiums.

5. *Vacation.* During the term of this Agreement and prior to the Cessation Date, Employee shall be entitled each calendar year to a vacation of four (4) weeks or the equivalent of twenty (20) working days, noncumulative, without loss of pay. For purposes of this Article the term "working days" includes Monday through Friday.

6. *Disability.*

6.1 A "Disability" shall be defined as the inability of Employee, by reason of physical illness or injury, to substantially perform his duties as an employee of Employer. For purposes hereof, Disability shall not

include the inability to perform duties by reason of mental and/or emotional illness or stress. The Board of Directors of the Employer and the Employee shall determine whether the Employee is Disabled, when such Disability commenced, whether it is continuing and when it has ended. In the event of a disagreement, such disagreement shall be resolved by arbitration in Plantation, Florida under the rules and auspices of the American Arbitration Association.

6.2 In the event of a Disability prior to an Event of Termination (hereinafter defined in section 7.1), the following wage continution [sic] plan shall become effective:

(a) During the first six (6) months of such Disability, Employee shall continue to receive one hundred (100%) percent of the annual salary being paid to him pursuant to Article 4 hereof at the time of the commencement of the Disability plus (x) all sums received by him, if any, under any policy or policies of disability income insurance purchased or paid for by Employer pursuant to section 4.6 or Section 4.7, but less (y) the maximum benefits payable under any temporary disability benefits laws of the State of Florida, if adopted.

(b) After the first six (6) months of such Disability and until the latter of five (5) years after such Disability commenced or the balance of the term of this Agreement, including any renewal hereof validly exercised by the Employee pursuant to Article 2 hereof, during which such Disability shall continue, Employee shall receive, notwithstanding the termination of this Agreement, the lesser of:

(i) forty (40%) percent of the annual salary being paid to him pursuant to Section 4.1 hereof at the commencement of the Disability; or

(ii) eighty (80%) percent of the annual salary being paid to him pursuant to Article 4 hereof at the commencement of the Disability less (x) all sums received by him, if any, under any policy or policies of disability income insurance purchased or paid for by Employer pursuant to Section 4.6 or Section 4.7 and also less (y) the maximum benefits payable under any temporary disability benefits laws of the State of Florida, if adopted.

(c) After the termination of the period described in Subsection 6.2(b), the Employee shall not receive any salary, but shall have the right to receive any and all payments made by any insurance company under any policy of disability income insurance on Employee purchased or paid for by Employer, said right to payments to exist notwithstanding the termination of this Agreement.

(d) During the first twelve (12) months of a Disability, but not thereafter, the Employer shall continue to make the payments provided for in section 4.4.

(e) During the period that the Employer is making payments to Employee pursuant to Subsection 6.2(a) or 6.2(b), but not thereafter, the Employer shall continue to make the payments provided for in sections 4.6, 4.7 and 4.8.

6.3 In the event of the return of Employee to his duties as an employee of the Employer on a full-time

basis for a period of five (5) consecutive business days, then for so long as Employee shall continue to work on a full-time basis as aforesaid and until the termination of the Disability, Employee shall receive his full salary computed as of the first day of his return.

6.4 For purposes of determining whether a Disability is a new Disability or a continuation of a previous Disability, a Disability shall not be deemed to have terminated unless Employee shall have returned to his duties as an employee of Employer on a full-time basis for a period of three (3) continuous and consecutive months.

7. *Termination.*

7.1 Upon the occurrence of any of the following events (hereinafter individually referred to as an "Event of Termination") the Employee's employment under this Agreement and his rights hereunder (but not the provisions of Articles 7, 8, 9 and 10 hereof, or, if the Event of Termination is Subsection 7.1(b), the provisions of Section 6.2 hereof, all of which shall survive any termination of the Employee's employment hereunder) shall terminate:

(a) The death of Employee;

(b) The Disability of the Employee for twenty-four (24) continuous and consecutive months;

(c) Employee's inability or substantial failure to perform the material duties of Employee under this Agreement or a violation by Employee of a material term of this Agreement; provided that, in the case of a failure or violation (other than a violation with respect to which Subsection 7.1(d) is applicable) which is susceptible to cure, same has not been cured within sixty (60) days of

notice to the Employee by the Employer of such failure or violation;

(d) Employee's wiifull violation of Subsection 3.3(d) or of Article 8;

(e) Employee's embezzlement of Employer's property;

(f) The conviction of the Employee of a felony; or

(g) The resignation of the Employee, with or without cause.

7.2 In the event the employment of Employee is improperly terminated by the Employer (which shall mean a termination for any reason other than set forth in Subsections 7.1(a) through 7.1(f) inclusive) or the Employee resigns for cause (which shall mean the continued material violation of the terms of this Agreement by the Employer which is not cured within sixty (60) days after written notice thereof by the Employee to the Employer), *then the Employee shall have the right, privilege and option (the "Option") to sell all but not less than all, of his stock in the Employer to the Employer and upon the exercise of the Option* (unless rescinded as hereinafter provided), the Employer shall be required to purchase said stock. Employer, acting by or through its Board of Directors, shall have the right to assign its obligation to purchase said stock to any one or more persons. Said assignment shall not relieve the Employer of its obligations under this Section 7.2.

(a) The Employee shall exercise the Option by notice thereof to the Employer within thirty (30) days after the Cessation Date.

(b) The purchase price of said stock shall be its fair market value as of the Cessation Date as determined (the "Determination") by Smith Barney, Harris Upham & Co., Inc. or such other comparable investment banker as may be selected by the Employer.

(c) Notwithstanding his prior exercise of the Option, if the Employee, upon receipt of the Determination, decides not to sell his stock to the Employer at the purchase price set forth in the Determination, he shall have a period of fifteen (15) days after receipt of the Determination to rescind his exercise of the Option and to retain his stock in the Employer. Such election to rescind the exercise of the Option shall be made by notice thereof to the Employer, given within said fifteen (15) day period. Upon such rescission, the Employee shall have no further right to exercise the Option and his prior exercise thereof shall be null and void.

(d) The closing ("Closing") of the transaction of sale and purchase shall occur on the first business day of the second calendar month succeeding the month in which the Determination is given to Employer and Employee. At the Closing, the Employee shall deliver to the Employer all of his stock in the Employer, duly endorsed for transfer, free and clear of all liens, encumbrances and security interests.

(e) The entire purchase price for the stock of the Employee sold pursuant to Section 7.2 *shall bear interest at the rate of nine (9%) percent per annum on the*

unpaid balance and shall be paid in sixty (60) equal consecutive monthly installments, inclusive of principal and interest at the rate aforesaid, with the first payment due and payable at the Closing and the balance of the payments due on the first day of each month thereafter until the purchase price together with interest has been paid in full. In the event that any installment of the purchase price is not paid on the due date thereof and within thirty (30) days after notice of default given by Employee to Employer, the entire unpaid balance together with accrued interest, at the option of the Employee, shall be due and payable. The Employer shall have the right to prepay all or any portion of the purchase price, together with accrued interest, at any time, without penalty or premium. Any such prepayments shall be credited against installments due in the inverse order of maturity.

(f) If Employee closes the sale of his stock to the Employer pursuant to the Option, the cost of obtaining the Determination shall be borne equally by the Employer and Employee; however, if Employee rescinds his exercise of the Option, the entire cost of the Determination shall be borne by the Employer.

8. *Covenant Not to Compete.*

8.1 *Certain Definitions.* For purposes of this Article 8, the following terms shall be defined by this Section 8.1.

(a) "Engaged in the surety or Fidelity Business" means to sell and/or issue surety and/or fidelity insurance and/or reinsurance, including but not limited

to contract surety bonds, credit enhancement bonds, subdivision bonds, fidelity bonds, license and permit bonds, and judicial bonds.

(b) "Person" shall mean any individual, sole proprietorship, joint venture, partnership, corporation, association, cooperative, trust, estate, or any other entity of any nature whatsoever.

8.2 Except as otherwise provided in Section 8.3 below, during the term of this Agreement and for a period of twenty-four (24) consecutive calendar months following the Cessation Date, the Employee shall not:

(a) Establish, own, manage, or operate, or participate in the establishment, ownership or management of, or be a director, officer, employee, salesman, agent or representative of, or be a consultant to, any Person Engaged in the Surety or Fidelity Business in Florida, New Jersey or in any other state in which the Employer, or any of its subsidiaries, has materially Engaged in the Surety or Fidelity Business at any time during the twelve (12) month period immediately preceding the Cessation Date;

(b) As a manager, director, officer, employee, salesman, agent, representative or consultant, (A) Engage in the Surety or Fidelity Business or in any other business ("Other Business") in which the Employer or any of its subsidiaries has been engaged at any time during the twelve (12) month period immediately preceding the Cessation Date (B) Within the states of Florida, New Jersey and any other state in which the Employer or any of its subsidiaries has materially Engaged in the

Surety or Fidelity Business or materially engaged in such other Business during such twelve (12) month period.

8.3(a) Notwithstanding anything contained in this Agreement to the contrary, the Employee shall not be deemed to have violated this Article 8 if he shall engage in any such activity with the express prior written consent of the Board of Directors of Employer. Any consent granted to the Employee hereunder shall be revocable by vote of the majority of the Board of Directors of Employer at any time, prior or subsequent to the Cessation Date, upon fifteen (15) days prior notice to Employee, and Employee agrees to cease and desist any previously consented to activity immediately upon receipt of such notice if such activity would otherwise be prohibited under the terms of this Agreement.

(b) This entire Article 8 shall not be applicable from and after a termination of this Agreement arising solely pursuant to Subsection 7.1(b) relating to a Disability.

8.4 The Employee acknowledges that he is one of the founders of the Employer, one of its key executive officers and, together with other individuals comparably involved in the affairs of Employer, one of its controlling shareholders. The Employee further acknowledges that upon the formation of Employer, investors, not actively engaged in the business affairs of Employer, invested over THREE MILLION TWO HUNDRED THOUSAND ($3,200,000) DOLLARS in the Employer, that the Employer is in the process of offering approximately THIRTY MILLION($30,000,000) DOLLARS of new securities to investors, most of whom will not be actively

engaged in the affairs of the Employer, and that a material inducement to such investors was and is the continued employment of Employee by Employer and the inability of Employee to compete with Employer following the cessation of his employment by Employer. In consideration thereof, and in consideration of the Employer entering into this Agreement, the Employee declares that the foregoing territorial and time limitations are reasonable and properly required for the adequate protection of the business of the Employer and of the investment in Employer by the Employee's fellow shareholders, and that in the event that any such territorial or time limitation is deemed to be unreasonable by a court of competent jurisdiction, then the Employee agrees to submit to the reduction of either or both of said territorial and time limitations to such an area and/or period as said court shall deem reasonable.

8.5 In the event the Employee should be in violation of the aforementioned restrictive covenants, then: (a) the time limitation thereof shall be extended for a period of time equal to the period of time during which such breach or breaches should occur; and, (b) in the event the Employer should be required to seek relief in any court or other tribunal, then the covenant shall be extended for a period of time equal to the pendency of such proceedings, including appeals; and (c) the Employee shall reimburse the Employer for Employer's legal fees and other costs reasonably incurred by Employer to enforce its rights hereunder.

9. *Disclosure of Information.* The Employee acknowledges that his relationship with the Employer shall be

one of trust and confidence and that there shall be available to him certain confidential information. At all times during and the term of Employee's employment with the Employer and for a period of forty-eight (48) consecutive calendar months thereafter, the Employee shall not, except with the Employer's express prior written consent, or except in the proper course of his employment with the Employer, and except for such knowledge or information as shall otherwise come into the public domain, directly or indirectly, communicate, disclose or divulge to any person, firm, corporation, association or other entity or use to his own benefit or the benefit of any person, firm, corporation, association or other entity, any confidential or proprietary knowledge or information, no matter when or how acquired, concerning the conduct and details of the Employer's business, including without limitation names of customers, marketing methods, trade secrets, policies, prospects and financial condition.

10. *Injunctive Relief.* If there is a breach of any of the provisions of Articles 8 or 9 of this Agreement, the parties acknowledge that monetary damages would be an inadequate remedy and the Employer shall be entitled in addition to any other remedies available to it at law or in equity, to an injunction restraining the Employee from such breach.

11. *Severability.* If any provision of this Agreement shall be declared invalid or illegal for any reason whatsoever, then notwithstanding such invalidity or illegality, the remaining terms and provisions of the within Agreement shall remain in full force and effect in the same manner as if the invalid or illegal provisions had not been contained herein.

12. *Prior Employment Agreements.* The employment agreement dated August 22, 1983 (the "Prior Agreement") between Employer's subsidiary, Southeastern Casualty and Indemnity Insurance Co., Inc., a Florida corporation (the "Subsidiary"), and Employee regarding the employment by the Subsidiary of Employee is hereby rescinded and rendered null and void and of no further force and effect from and after the Effective Date. The Subsidiary is executing this Agreement at the foot hereof for the sole purpose of agreeing to the termination of the Prior Agreement.

13. *Subordination.* From and after the second to occur of the Cessation Date and an Event of Default under any debenture issue by the Employer on or before the Effective Date (all debentures so issued being referred to as the ("Debentures") and as long as such Event of Default is continuing, no sums which may be, or shall become, due and owing to Employee from the Employer arising out of this Agreement, shall be paid to Employee until such Event of Default has been cured or such Debenture paid in full.

14. *Miscellaneous.*

14.1 *Applicable Law.* This Agreement shall be governed by and construed under the laws of the State of Florida. The parties hereto agree that any legal action concerning any claims, disputes or controversies arising out of or relating to this Agreement, shall only be commenced in the State of Florida. The parties hereto further agree and consent to jurisdiction of the courts of said state. The parties hereto further agree to accept service of any pleadings (and such service shall be valid), if made

by certified or registered mail, return receipt requested, to the parties as set forth in Section 14.7 hereof.

14.2 *Assignment.* The rights and obligations of the Employer under this Agreement shall inure to the benefit of and shall be binding upon the successors of the Employer and may be assigned, for all or any part of the term hereof, by the Employer to any affiliated entity; PROVIDED, HOWEVER, that the Employer shall remain liable for the obligations of the Employer hereunder notwithstanding such assignment. In the event of such assignment, any and all references to the "Employer" in other paragraphs of this Agreement shall be deemed to mean and include such assignee. The Employee shall not have the right to assign this Agreement or any portion hereof. This Agreement shall be binding upon the estate, heirs and legal representatives of the Employee.

14.3 *Further Assurances.* The parties agree that they shall execute and deliver any and all additional writings, instruments and other documents contemplated hereby or referred to herein and shall take such further action as shall be reasonably required in order to effectuate the terms of this Agreement.

14.4 *Article Headings.* The article headings contained in this Agreement are for reference purposes only, and shall not affect the meaning or interpretation of this Agreement.

14.5 *Modification.* This Agreement shall not be amended, modified or supplemented at any time unless by a writing executed by the parties hereto. No amendment, supplement or termination of this Agreement shall

affect or impair any rights or obligations which have heretofore matured hereunder.

14.6 *Cumulative Rights; Waiver.* Each and every right granted to a party hereunder, or in any other document contemplated hereby, or delivered hereunder or executed concurrently herewith, or by law or equity, shall be cumulative and may be exercised at any time, or from time to time. No failure on the part of any party to exercise, and no delay in exercising, any right shall operate as a waiver thereof, nor shall any single or partial exercise by any party of any right preclude any other or future exercise thereof or the exercise of any right. The failure of any party at any time, or from time to time, to require performance by any other party of any term, condition or provision of this Agreement shall in no way alter or otherwise affect the right of such party at a later time to enforce the same. No waiver by any party or any condition or the breach of any condition or the breach of or any term, covenant or provision contained in this Agreement, whether by conduct or otherwise, at any time or from time to time, shall be deemed to be or be construed as a further or continuing waiver of any such condition or a breach or as a waiver of any other condition or of any other or subsequent breach of the same or any other term, covenant or provision.

14.7 *Notice.* All notices or other communications required or permitted hereunder shall be in writing and shall be considered given or made if mailed in the United States, by registered or certified mail, postage prepaid, return receipt requested or if sent by prepaid telegram and addressed:

(a) If to the Employer:

Southeastern Insurance Group,
Incorporated
1620 West Oakland Park Boulevard
Suite 200
Fort Lauderdale, Florida

with copy to:

Paul M. Petigrow, Esq.
Lampf, Lipkind, Prupis
& Petigrow
80 Main Street
West Orange, New Jersey 07052

(b) If to Beck:

Robert A. Beck, II
18201 Daybreak Drive
Boca Raton, Florida 33434

with a copy to:

Jerald A. Freshman, Esq.
Freshman, Freshman
& Michelson, P.A.
5975 Sunset Drive
Miami, Florida

Any change in address shall only be binding after written notice to the other party hereto.

15. *Defined Terms.* All defined terms used in this Agreement and not specifically defined in context are defined in this Article 15.

15.1 "Cessation Date" shall mean the date the Employee shall first cease to be employed by the Employer.

15.2 "Effective Date" shall mean the closing of that certain private placement of securities aggregating approximately THIRTY MILLION ($30,000,000) DOLLARS which is presently contemplated by Employer. If such closing shall not occur prior to December 31, 1986, then this Agreement shall be null and void and the Prior Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Employee hereto has hereunto set his hand and seal and the Employer has duly authorized and caused these presents to be signed by its President and attested to by its Secretary as of the date first above written.

IN THE PRESENCE OF OR ATTESTED BY:

/s/ Illegible

/s/ Robert A. Beck II (L.S.)
ROBERT A. BECK, II

SOUTHEASTERN
INSURANCE GROUP,
INCORPORATED

/s/ Carl B. Shible
CARL B. SHIBLE,
Secretary

By: /s/ Ronald M. Prupis
RONALD M. PRUPIS,
Executive
Vice President

The Subsidiary is executing this Agreement for the sole purpose of agreeing to the termination of the employment agreement between the Subsidiary and Employee pursuant to Section 12 hereof.

SOUTHEASTERN CASUALTY
AND INDEMNITY
INSURANCE CO., INC.

/s/ Illegible

By: /s/ Ronald M. Prupis
Ronald M. Prupis,
Executive
Vice President

EXHIBIT B

I Engagement

Firemark was hired by the SIG board to conduct a review of the company's operations, procedures, staff and management, as part of the company's preparation for its initial public offering. This was completed by Firemark's two principals, a surety claims specialist, a financial analyst and an administrative/personnel specialist, on premises in the Florida office from May 9 – May 27, 1988.

II Interview Summary

In order to ascertain employee attitudes, recurring themes of problems, if any, and strengths and weaknesses of the staff and senior management, 3 people conducted one-on-one interviews with 72 employees, randomly selected from the computerized employee list. Interviewees included personnel from every department, as well as samplings from all levels and job functions. This summary is based on *actual comments* from SIG employees, most of which have been verified, some of which are still under investigation. Many of the problems are not uncommon for a relatively new, growing company, but the magnitude and pervasiveness of SIG's problems are unique. For many of these issues to be brought up at all is indicative of serious trouble. In general, we found the following lacking:

A. Respect for Senior Management

Claims were made regarding sexual harassment, use of drugs, nepotism, favoritism, role model deficiencies, expense account abuse, family

travel expensed to SIG, transfer of SIG funds into personal accounts, embezzlement of funds, lack of general management ability or knowledge of insurance or surety, immaturity, emotionalism, elitism, numerous discriminatory practices, a "party-hearty" mentality and a lack of respect for the company or for SIG employees, in general. There is no code of ethics for officers.

B. Controls

There is no budget process at any levels, therefore there is no budget review, accountability or concern for spending the company's money. SIG has no internal audit process, no underwriting or claims self-audit, no agency reviews, no underwriter reviews, confusing or inappropriate underwriting authority authorizations, fluctuating underwriting criteria, and a detrimental cash-flow underwriting mentality. Additionally, senior members of management have relatives reporting directly to them, and have the ability to control salary increases, bonuses, privileges and perquisites [sic], in addition to giving rise to probable, detrimental conflicts of interest. There are no checks and balances. There are no specific corporate goals or deviation analyses based on on-going reviews, no time lines for projects, ventures and no planning process at all. There is no management information system (mis) or reports to review results or trends. There is no quality control system.

C. Objectives and Strategic Planning

There are not written objectives either for individuals or the corporation. The few written

goals that some employees have do not include a game plan, time frames or alternative actions. There is *no* MBO at any level. There are no specific objectives, and therefore no way to analyze derivations or deviations. SIG has no formal business plan nor does it have a formal budgeting process. There are no formal departmental strategic plans.

D. Written Policies & Procedures

There are no productivity or quality standards. There are little, if any, written policies or procedures within each department. Those that exist are often changed and consistently confusing.

E. Communication

There is a non-existance [sic] of management or employee information reports. Goals and objectives, if any, are nebulous and only known to a few people. There is minimal availability of policies and procedures. There is no employee newsletter or employee activities group. Performance measures and results by either individuals or departments or even the company are not communicated. Communication to the board is often misleading and frequently whitewashed.

F. Personnel & Training Issues

Fair and equitable treatment of all personnel is inconsistent. Job titles, job levels, organization design, and job descriptions are arbitrary and

need revamping. There is no formal salary survey data or equitable salary administration system. There is no educational reimbursement policy for some employees, while it is available for others. Benefits are not competitive. There is no EEO or Sexual Harrassment [sic] policy/ statement. Many appraisals are not discussed with employees. There is a lack of professional hiring practice. There is no formal supervisory/ management training, nor is there formal job training. There is no development planning process or succession planning process. There is an overall inexperience of the majority of staff and most of senior and middle management. The company is overstaffed by as much as 30-50%. There is no formal, profit-oriented criterion for compensation of professionals and management. There are cliques, in-circles, camps and favoritism. Morale has been purchased by elaborate and costly parties, perks, and amenities. Good moral ebbs and flows, based on the moods of senior managers. There is frequently tension and many employees are scared.

These interviews, done on a card-sort basis, led us to recognize the need for a further, more detailed review of certain topics to include personnel administration, claims, underwriting, CPC, legal, financial controls and accounting and the senior management team.

III Review of Policies and Procedures

There are virtually no formal, written policies and procedures in the company. A few departments have made the effort, such as personnel and follow-up, but the department managers are inexperienced and have NO

ONE to go to for advice, and therefore have inadequately completed the P&P. In those few areas where we see some written guidance, there are no formal procedures for implementation, and the product is lacking in depth and understanding of the subject.

IV Departmental Reviews

Audits were completed on Personnel, Underwriting and Claims. Substantial problems were uncovered in each area.

A. Underwriting

A cash-flow mentality, coupled with pressure to produce premium dollars, and "commissions" to certain underwriters from CPC, and even the agency force, make this one of the least professional operations we've ever seen. There is little or no communication between underwriting and the various support departments, past due agents, or within the department itself due to 3 warring factions. Standard underwriting guidelines are routinely ignored. Policies and Procedures are constantly set and changed and are therefore ignored. Favoritism is rampant, and management is unprofessional. The Underwriting Appeal Process which allows a junior person to ignore the chain of command and get a bad risk written is dangerous. Aetna forms are being used, which send the wrong signals to agents and insureds. Agents are being paid commissions, although they are not licensed. SIG is doing business in states in which it is not licensed. Risks are being "stacked". Underwriting must be controlled. Although there is a core

of professionals, a staffing review must be conducted. Standards and levels of authorization must be instituted.

B. Personnel

The entire department needs changing. There is no privacy. There is nowhere for employees with concerns to go. There is no understanding of parity, EEOC, hiring and termination practices, salary administration, required governmental reports are not completed and required posters on EEOC, Workers' Compensation, disability, and unemployment are not in evidence. There is no counseling or proper performance appraisal process. The staff, including the manager, has no prior personnel training or background.

C. Claims

Files are maintained incorrectly. Reserve authority should be established for each adjuster. Settlement authority must be established. Documentation is atrocious. There is no effective diary system. The staff is inexperienced and incompetent. *Everything* is sent to litigation. Salvage recovery is even in the control of the attorney. Training is non-existent. The entire department must be reconstructed.

V Phase I Initial Recommendations

On May 13, 1988, Firemark recommended the following to the board:

A. Augmentation of the board by an insurance expert.

B. DHS should be requested to expand the scope of their audit.

C. The company should focus on its core business.

D. D&O insurance should be sought.

E. The following management changes:

1. Termination of Ron Prupis.
2. Termination of Bob Beck.
3. Termination of Linda Burton.
4. Demotion of Carl Shible.
5. Len Bellezza named temporary CEO.
6. Immediate search for new CEO and CFO.

F. Procedures and Controls implemented ASAP.

1. MIS.
2. Operating Checks and Balances.
3. Financial controls.

VI Phase I Additional Recommendations

Firemark has additionally recommended:

A. New claims VP be hired.

B. New infra-structure and organizational reporting (see attached proposed organization chart).

C. Bob Pershes be eliminated from any management role and his billing of SIG be investigated.

D. Rich Pettigrow be reassigned to a less taxing position.

E. Judy Weaver be reassigned to handle operational areas only. DP and communications should not report to her because of a conflict of interest.

F. Claims must entirely be revamped.

G. A complete rehaul of Personnel to include salary administration, pb descriptions, and performance appraisals.

H. The formation of a training department.

I. Policy and Procedure writing and implementation across the board.

J. More active involvement by the board of directors.

K. Better cooperation with auditors, regulators and Treasury.

L. Outside investment manager be hired.

M. Review of company benefits.

N. Review of perquisites.

O. Internal Audit department be set up reporting directly to the board of director's audit committee.

P. Staff analysis and appropriate reductions.

Q. Review of DP, communications and mail and file.

R. Formation of company newsletter and activities group.

S. Deletion of numerous parties and perks.

VII Phase II

Phase II, which has already begun, must be continued. Additional investigation must be completed and recommendations made.

VIII Summary

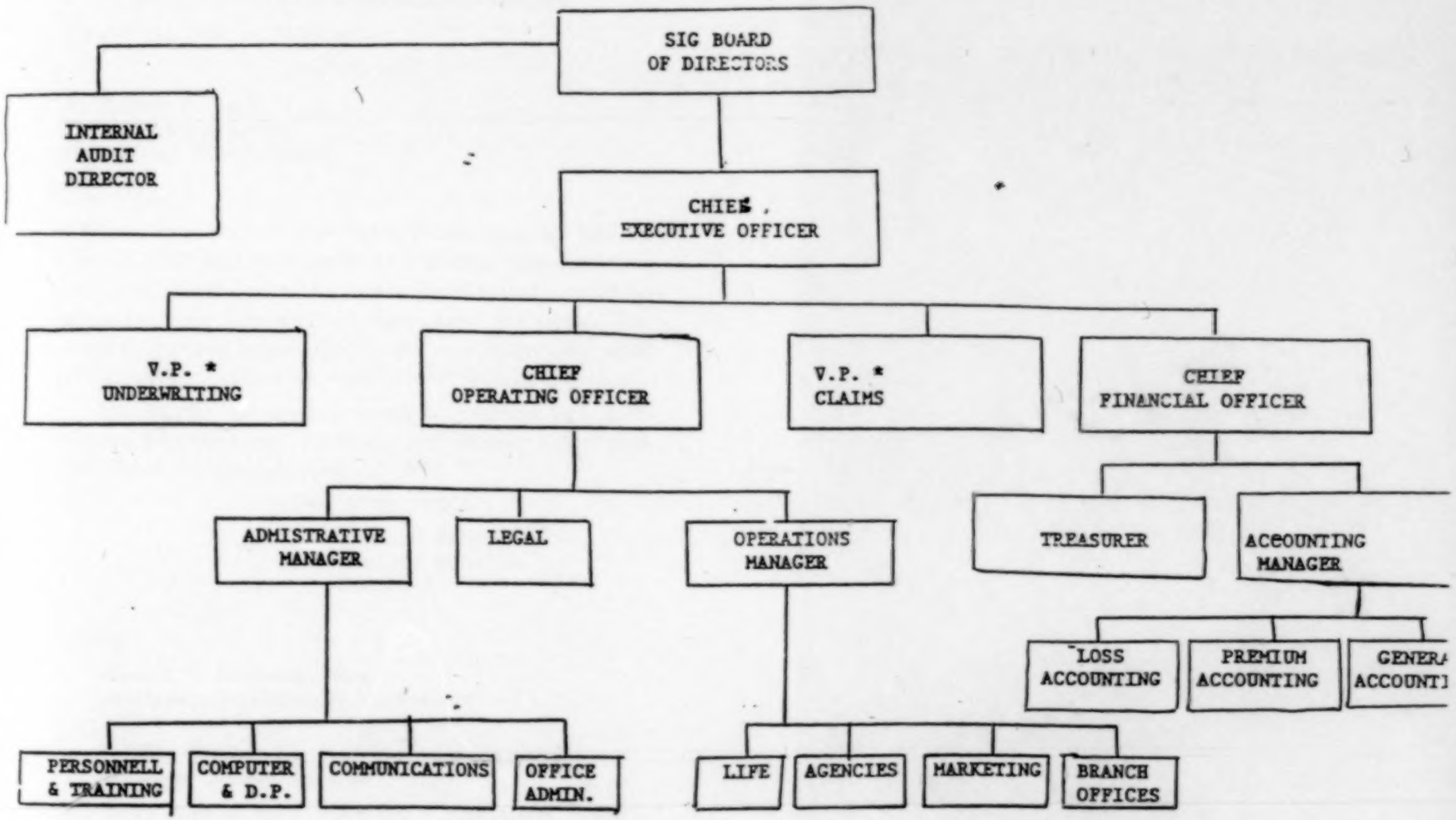
While we strive to be "upbeat" as we operate within Southeastern's office, and indeed are optimistic about the potential of the company, this review for the Board must be candid and realistic.

Although board members resist the use of the term, SIG must frankly be considered a turnaround company. To refuse to acknowledge the number and gravity of problems, or to fail to understand the complexity and difficulty of establishing a profitable operation is shortsighted and dangerous. We are not faced with the task of restoring highly profitable results to an established company that has stumbled. Southeastern has yet to build an infrastructure, and in general has not established a solidly profitable business. Any profits reported in the past are

highly suspect, considering previous management's clearly demonstrated propensity to delude itself and the Board. Firemark's initial recommendations have been considered, and for the most part the Board has begun the implementation. Ron Prupis, Bob Beck and Linda Burton have been removed, and Carl Shible has been demoted. Vigorous audit work has begun, and Board/management interface has been established. A focus on the core surety activities of SIG has been undertaken, and procedures and controls are being implemented. A search for a permanent CEO and FO has begun, and a few candidates have already emerged.

Southeastern is moving in the right direction once again. Challenges and problems still abound, however, and very few recoveries ever occur without relapses and the emergence of still unrecognized obstacles. It is essential that the Board recognize that SIG is not back to normal at this time, that there is still considerable operating work to be done.

Suggested SIG Organization Chart



* After the CEO and CFO have had 6+ months or so to acclimate, the VPs of Claims and Underwriting ould report to the COO.

BEST AVAILABLE COPY

EXHIBIT C

SOUTHEASTERN INSURANCE GROUP

[Names Omitted In Printing]

May 17, 1988

Mr. Robert A. Beck, II
18201 Daybreak Drive
Boca Raton, Florida 33434

Dear Bob:

This letter will confirm the oral advice given you on May 13, 1988 and shall serve as a formal notice that on said date, the Board of Directors unanimously voted to terminate your Employment Agreement for cause. The decision was not made lightly and was taken only after the Board considered an extensive report by Firemark.

The Board has further voted to provide you with severance in the form of continuation of your salary and other benefits through June 30, 1988.

Very truly yours,

/s/ Leonard Bellezza
Leonard Bellezza
President

LB:mcw

cc: Gerald A. Freshman, Esq.
Freshman, Freshman & Michaelson
5975 Sunset Drive
Miami, Florida

Cert:RRR #P 657 300 939

499 N.W. 70th Avenue, Suite 200 • Plantation, Florida
33317 • (305) 581-8100
Toll Free 1 (800) 621-3397 • In Florida
1 (800) 331-4508 • Telecopier (305) 583-6336

EXHIBIT D

GUARANTY

FIRST FIDELITY BANK, NATIONAL ASSOCIATION, NEW JERSEY
(hereinafter called "Bank")
550 Broad Street
Newark, New Jersey 07102

To induce Bank to make loans to SOUTHEASTERN INSURANCE GROUP, INCORPORATED (herein called "Borrower") under the Note and Loan Agreement as referred to below, now or in the future, and with full knowledge that said loans would not be made without this Guaranty, the undersigned Guarantors agree as follows:

The undersigned, each for himself or itself, jointly and severally, hereby guarantee full, prompt and unconditional payment when due of the Liability of the Borrower, (as defined below), to Bank, now existing or hereafter incurred, and the full, prompt, and unconditional performance of every term and condition of any transaction to be kept and performed by the Borrower under the Liability of the Borrower. This Guaranty is a primary obligation of the undersigned and shall be a continuing inexhaustible Guaranty without limitation as to duration and may not be revoked prior to satisfaction in full of the Liability of the Borrower.

The term "Liability of the Borrower" shall include all liabilities of Borrower, now or hereafter existing, due or to become due, to the Bank under that certain Promissory Note to Bank, dated December 30, 1987, in the principal sum of $7,500,000.00, and under a Loan and Security

Agreement (the "Loan Agreement") dated December 30, 1987 from Borrower to Bank and all amendments, modifications, extensions and renewals thereof and substitutions therefor.

Without incurring responsibility to the undersigned and without impairing or releasing the obligations of the undersigned hereunder, Bank may at any time and from time to time (whether or not after revocation or termination of this Guaranty) without prior notice to or the consent of, the undersigned, upon any terms or conditions and it whole or in part:

(1) change the manner, place or terms of payment, and/or change or extend the time for payment or renew or alter, any Liability of the Borrower or any security therefor, and the Guaranty herein made shall apply to the Liability of the borrower as so changed, extended, renewed or altered;

(2) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner and in any order any property by whomsoever at any time pledged, mortgaged or in which a security interest is given to secure, or howsoever securing, the Liability of the Borrower;

(3) exercise or refrain from exercising any rights against the Borrower or others (including the undersigned) or against the security, or otherwise act or refrain from acting;

(4) settle or compromise any Liability of the Borrower, dispose of any security therefor, with or without consideration, or any liability incurred directly or indirectly in respect thereof or hereof, and may subordinate

the payment of all or any part thereof to the payment of any Liability (whether due or not) of the Borrower to creditors of the Borrower other than Bank and the undersigned; and

(5) apply any sums by whomsoever paid or howsoever realized to any Liability of the Borrower.

No invalidity, irregularity or unenforceability of all or any part of the Liability of the Borrower or the impairment or loss of any security therefor, whether caused by any actions or inactions of Bank, or otherwise, shall affect, impair or be a defense to this Guaranty.

The undersigned hereby waives any right of subrogation to any security.

Upon the happening of any of the following events: Event of Default exists under the Loan Agreement; the insolvency of the borrower or any person (including the undersigned) who is liable directly or indirectly in respect of any of the Liability of the Borrower; or a material adverse change in the financial condition of the Borrower or any aforesaid person; or suspension of business of the Borrower or any aforesaid person; or the issuance of any warrant, process or order of attachment, garnishment or other lien and/or the filling of a lien as a result thereof against any of the property of the Borrower or any aforesaid person; or the making by the borrower or any aforesaid person of an assignment for the benefit of creditors, or a custodian being appointed for the Borrower or any aforesaid person or for any property of any of them; or any proceeding being commenced by or against the Borrower or any aforesaid person under any

bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt, receivership, liquidation or dissolution law or statute and if such proceedings are against the Borrower or any aforesaid person the same are not dismissed within forty-five (45) days; or if an order for relief as to the Borrower or any aforesaid person is entered under the Bankruptcy Code; or if the Borrower or any aforesaid person is generally not paying their debts as they become due; or any representation in any financial or other statement of the Borrower or any aforesaid person, delivered to Bank by or on behalf of the Borrower or such person, is untrue or incomplete in any material respect then, and in such event, and at any time thereafter, Bank may, without notice to the Borrower or any aforesaid person, make the Liability of the Borrower immediately due and payable hereunder as to the undersigned, and Bank shall be entitled to enforce the obligations of the undersigned hereunder.

In any proceedings to collect any liabilities of the undersigned to bank, the undersigned shall pay all costs and expenses of every kind for collection, including reasonable attorneys' fees.

If claim is ever made upon Bank for repayment or recovery of any amount or amounts received by Bank in payment or on account of any of the Liability of the Borrower and Bank repays all or part of said amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over Bank or any of its property, or (b) any settlement or compromise of any such claim effected by Bank with any such claimant (including the Borrower), then, and in such event, the undersigned agree that any such judgment, decree, order,

settlement or compromise shall be binding upon the undersigned, notwithstanding any revocation hereof or the cancellation of any note or other instrument evidencing any Liability of the borrower, and the undersigned shall be and remain liable to Bank hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by Bank.

Settlement of any claim by Bank against the borrower or any Guarantor, whether in any proceedings or not, and whether voluntary or involuntary, shall not reduce the amount due under the terms of this Guaranty.

All rights, powers and remedies of Bank hereunder and under any agreement between the Borrower or any Guarantor and Bank, now, or at any time hereafter in force, shall be cumulative and not alternative, and shall be in addition to all rights, powers and remedies given to Bank by law. This Guaranty shall be construed in accordance with the laws of the State of New Jersey.

No delay on the part of Bank in exercising any of its options, powers or rights or partial or single exercise thereof, shall constitute a waiver thereof. No waiver of any of its rights hereunder, and no modification or amendment of this Guaranty, shall be deemed to be made by Bank unless the same shall be in writing, duly signed on behalf of Bank, by a duly authorized officer, and each such waiver, if any, shall apply only with respect to the specific instance involved, and shall in no way impair the rights of Bank or the obligations of the undersigned to Bank in any other respect at any other time.

The undersigned waive notice of acceptance of this Guaranty and notice of any Liability of Borrower to

which it may apply and waive notice of default, non-payment, partial payment, presentment, demand, protest, notice of protest or dishonor and all other notices to which guarantors might otherwise be entitled, or which might be required by law and required to be given by the Bank.

This Guaranty shall be binding upon each of the undersigned Guarantors, their respective successors and assigns, and shall enure [sic] to the benefit of Bank, its successors and assigns.

The undersigned hereby authorizes Bank, in its sole discretion, to disclose any financial or other information it may have about the undersigned to any present or future participant or prospective participant, any regulatory body or agency having jurisdiction over Bank, or to any person which succeeds to all or any part of bank's interest herein.

This guaranty may be executed to the parties hereto individually or in combination, in one or more counterparts; each of which shall be an original, all of which shall together shall contribute one and the same document. The undersigned hereby authorized Bank to complete the date of this guaranty and the date of the Note and Loan Agreement with the date on which the closing of the transactions completed hereby actually occurs.

December 30, 1987

LEONARD BELLEZZA

/s/ Robert A. Beck, II
ROBERT A. BECK, II

/s/ Robert Pershes
ROBERT PERSHES

/s/ Carl B. Shible
CARL B. SHIBLE

WILLIAM D. LIPKIND

ERNEST J. SABATO

/s/ Harry Olstein
HARRY OLSTEIN

WILLIAM PAULUS, JR.

/s/ Neil Prupis
NEIL PRUPIS

/s/ Ronald Prupis
RONALD PRUPIS

STATE OF FLORIDA :
COUNTY OF BROWARD : SS.

BE IT REMEMBERED, that on this 29th day of December in the year Nineteen Hundred Eighty Seven, before me the subscriber, THERESA M. WALDRON personally appeared ROBERT A. BECK, II, ROBERT PERSHES, CARL B. SHIBLE, HARRY OLSTEIN, NEIL PRUPIS and RONALD M. PRUPIS who I am satisfied are the persons mentioned in the within instrument, and I having made known to them the contents thereof, they acknowledged that they signed, sealed and delivered the within Guaranty as their voluntary act and deed for the

uses and purposes therein expressed and that they acknowledged receipt of a true copy of the within instrument.

/s/ Theresa M. Waldron
Notary Public

(SEAL)

Illegible

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 91-8121-CIV-ROETTGER

ROBERT A. BECK, II,

Plaintiff,

VS.

RONALD M. PRUPIS, et al.,

Defendants.

_____/

PLAINTIFF'S RESPONSE TO RICO CASE STANDING ORDER

Plaintiff, Robert A. Beck, II ("Beck"), files the following response to the Court's RICO Case Standing Order:

1. State whether the alleged unlawful conduct is in violation of 18 U.S.C. §§ 1962(a), (b), (c) and/or (d):

The alleged unlawful conduct is in violation of 18 U.S.C. §1962(a), (b), (c) and (d).

2. List each defendant and state the alleged misconduct and basis of liability of each defendant:

Beginning in or around the fall of 1985, the defendants devised an artifice to defraud and to obtain money and property from Beck and others by means of false pretenses, representations and promises and to obstruct, delay and affect commerce by means of extortion. This illegal pattern of wrongdoing was done within the auspices of Southeastern Insurance Group, Inc., a holding

company that operated several insurance company subsidiaries ("SIG"). The following is the specific misconduct alleged on behalf of each of the defendants:

a. Ronald Prupis ("R. Prupis"):

i. *Fraudulent Financial Information.* Beginning in or around August of 1987, this defendant (and others) conspired to and did falsify financial information (especially relating to claims) relating to SIG for the purpose of issuing fraudulent statements to Beck, to the regulators, to the federal government, to First Fidelity Bank, and to the shareholders and creditors of SIG. *See* Complaint at ¶19 (copy attached as Exhibit "A"). In addition, this defendant (and others) materially understated the loss reserve liabilities of SIG.

ii. *Extortion of Contractors:* In early 1987, this defendant (and others) conspired to and did create a separate corporation, Contractors Performance Corp. ("CPC"), in order to cover up an illegal manner of operating SIG. CPC was set up for the purpose of extorting contractors applying for surety bonds from the SIG insurance subsidiaries. This was done by forcing the contractors to pay illegal fees to CPC to qualify for surety bonds, in addition to the surety bond premium payable to the SIG insurance subsidiaries. Over 100 contractors applying for SIG surety bonds were forced to pay fees to CPC. Specific examples, including victims, are set forth in ¶¶23-28 of the Complaint.

In addition, as more fully set forth in ¶¶29-30 of the Complaint, this defendant (and others) conspired to and

did fraudulently hide the illegal nature of CPC's operations from Beck, other officers of SIG and the regulatory authorities.

iii. *Looting:* As more fully detailed in ¶¶20-21, 33-34 and 37-41, this defendant (and others) conspired to and did loot SIG for his personal benefit.

iv. *Attempted Options Fraud:* This defendant (and others) fraudulently attempted to provide options to purchase SIG stock to certain individuals. This attempted fraud would have resulted in a massive shift of shareholder's equity from all of the shareholders to only a few, who also were senior officers and directors of SIG. *See* Complaint at ¶36.

v. *Fraudulent Termination of Beck for Cause:* This defendant (and others) conspired to and did engage in systematic efforts to fraudulently create causes for Beck's termination, by portraying Beck as an ineffective officer, by holding him responsible for actions of irresponsible management over which Beck had no authority or control, and by holding Beck accountable for failures of senior management, despite the fact that they were outside his area of responsibility. This fraud was committed in order to improperly substantiate a termination for cause and to shift the blame for the defendants' (all of whom were the senior officers and directors of SIG) illegal conduct. Beck would no longer be able to report improper activities, and, moreover, could be used as a scapegoat for whatever illegal activities came to light. *See* Complaint at ¶¶43-60.

vi. *Fraudulent Inducement To Execute Personal Guaranty:* In or around November and December of 1987, this defendant (and others) conspired to and did fraudulently induce Beck to personally guaranty a $7.5 million loan from First Fidelity Bank to SIG. The loan was needed by the defendants to continue their racketeering conduct. In their application for this loan, the defendants utilized the fraudulently created financial statements and fraudulently created financial estimates, all of which greatly overstated the financial condition of SIG.

To further fraudulently induce Beck to enter into this personal guarantee, this defendant (and others) conspired to and did employ false and misleading statements and omissions to cause Beck to believe that his employment contract would continue to be honored. However, the defendants had no intention of honoring Beck's contract, as they had already embarked on their criminal conduct and their associated scheme of creating fraudulent causes for Beck's termination and creating a scapegoat for their illegal conduct.

To further fraudulently induce Beck to enter into this personal guaranty, this defendant (and others) conspired to and did utilize fraudulent financial information to cause Beck to believe that SIG was in a much better financial position than it actually was. Had Beck known: (1) the true financial condition of SIG, (2) the illegal activities committed by the defendants, or (3) the plans to terminate him and use him as a scapegoat, he would not have executed the personal guaranty.

As a result of the looting of SIG and its subsidiaries by the defendants, SIG was unable to repay the loan and

Beck's personal guaranty was triggered. *See* Complaint at ¶¶ 61-73.

vii. *Fraudulent Inducement to Extend Unsecured Loan to SIG:* On or about August 11, 1986, this defendant (and others) fraudulently induced Beck to extend a $150,000 loan to SIG. The fraudulent statements related to: (1) the true financial condition of SIG, (2) the illegal activities committed by the defendants, and (3) the plans to terminate Beck and use him as a scapegoat.

b. Leonard Bellezza:

i. *Fraudulent Financial Information: See,* Section 2(a)(i), *supra*. Further, in order to cover-up the defendants' looting of SIG, this defendant (and others) conspired to and did falsify financial reports of SIG's insurance subsidiaries by creating sham receivables.

ii. *Extortion of Contractors: See* Section 2(a)(ii), *supra*.

iii. *Looting: See* Section 2(a)(iii), *supra*.

iv. *Attempted Options Fraud: See* Section 2(a)(iv), *supra*.

v. *Set Aside Fraud:* This defendant held a financial interest, contrary to federal law, in Aldrich Construction, Inc., a minority company entitled to the set aside of various government funds. To further this financial interest, this defendant used his position at SIG to cause bonds to be issued to this minority company for which the company did not financially qualify.

vi. *Fraudulent Promises to Indemnify:* To secure the release of bonds for several contractors, this defendant fraudulently promised to sign indemnity agreements to indemnify SIG for claims and losses on the bonds. These agreements were never signed. Specific examples of this fraudulent practice are set forth in ¶32 of the Complaint.

vii. *Fraudulent Termination of Beck for Cause: See* Section 2(a)(v), *supra*.

viii. *Fraudulent Inducement To Execute Personal Guaranty: See* Section 2(a)(vi), *supra*.

ix. *Fraudulent Inducement to Extend Unsecured Loan to SIG: See* Section 2(a)(vii), *supra*.

c. Byron L. Sparber ("Sparber"):

i. *Fraudulent Financial Information: See* Section 2(b)(i), *supra*, as to the cover-up of looting only.

ii. *Extortion of Contractors: See* Section 2(a)(ii), *supra*, as to facilitating and conspiring to extort only.

iii. *Looting: See* Section 2(a)(iii), *supra*.

iv. *Attempted Options Fraud: See* Section 2(a)(iv), *supra*.

v. *Fraudulent Termination of Beck for Cause: See* Section 2(a)(v), *supra*.

vi. *Fraudulent Inducement To Execute Personal Guaranty: See* Section 2(a)(vi), *supra*.

vii. *Fraudulent Inducement to Extend Unsecured Loan to SIG: See* Section 2(a)(vii), *supra*.

d. William D. Lipkind ("Lipkind"):

i. *Fraudulent Financial Information: See* Section 2(b)(i), *supra.*

ii. *Extortion of Contractors: See* Section 2(a)(ii), *supra.*

iii. *Looting: See* Section 2(a)(iii), *supra.*

iv. *Attempted Options Fraud: See* Section 2(a)(iv), *supra.*

v. *Fraudulent Termination of Beck for Cause: See* Section 2(a)(v), *supra.*

vi. *Fraudulent Inducement To Execute Personal Guaranty: See* Section 2(a)(vi), *supra.*

vii. *Fraudulent Inducement to Extend Unsecured Loan to SIG: See* Section 2(a)(vii), *supra.*

e. Neil Prupis ("N. Prupis"):

i. *Fraudulent Financial Information: See* Section 2(b)(i), *supra.*

ii. *Extortion of Contractors: See* Section 2(a)(ii), *supra.*

iii. *Looting: See* Section 2(a)(iii), *supra.*

iv. *Attempted Options Fraud: See* Section 2(a)(iv), *supra.*

v. *Fraudulent Termination of Beck for Cause: See* Section 2(a)(v), *supra.*

vi. *Fraudulent Inducement To Execute Personal Guaranty: See* Section 2(a)(vi), *supra.*

vii. *Fraudulent Inducement to Extend Unsecured Loan to SIG: See* Section 2(a)(vii), *supra.*

f. Ernest J. Sabato ("Sabato"):

i. *Fraudulent Financial Information: See* Section 2(b)(i), *supra,* as to the cover-up of looting only.

ii. *Looting: See* Section 2(a)(iii), *supra.*

iii. *Attempted Options Fraud: See* Section 2(a)(iv), *supra.*

iv. *Fraudulent Termination of Beck for Cause: See* Section 2(a)(v), *supra.*

v. *Fraudulent Inducement To Execute Personal Guaranty: See* Section 2(a)(vi), *supra.*

vi. *Fraudulent Inducement to Extend Unsecured Loan to SIG: See* Section 2(a)(vii), *supra.*

g. William Paulus, Jr. ("Paulus"):

i. *Fraudulent Financial Information: See* Section 2(b)(i), *supra.*

ii. *Extortion of Contractors: See* Section 2(a)(ii), *supra.*

iii. *Looting: See* Section 2(a)(iii), *supra.*

iv. *Attempted Options Fraud: See* Section 2(a)(iv), *supra.*

v. *Fraudulent Termination of Beck for Cause: See* Section 2(a)(v), *supra.*

vi. *Fraudulent Inducement To Execute Personal Guaranty: See* Section 2(a)(vi), *supra.*

vii. *Fraudulent Inducement to Extend Unsecured Loan to SIG: See* Section 2(a)(vii), *supra.*

h. **Harry Olstein ("Olstein"):**

i. *Fraudulent Financial Information: See* Section 2(b)(i), *supra,* as to the cover-up of looting only.

ii. *Looting: See* Section 2(a)(iii), *supra.*

iii. *Attempted Options Fraud: See* Section 2(a)(iv), *supra.*

iv. *Fraudulent Termination of Beck for Cause: See* Section 2(a)(v), *supra.*

v. *Fraudulent Inducement To Execute Personal Guaranty: See* Section 2(a)(vi), *supra.*

vi. *Fraudulent Inducement to Extend Unsecured Loan to SIG: See* Section 2(a)(vii), *supra.*

i. **Frederick C. Mezey ("Mezey"):**

i. *Fraudulent Financial Information: See* Section 2(b)(i), *supra,* as to the cover-up of looting only.

ii. *Looting: See* Section 2(a)(iii), *supra.*

iii. *Attempted Options Fraud: See* Section 2(a)(iv), *supra.*

iv. *Fraudulent Termination of Beck for Cause: See* Section 2(a)(v), *supra.*

v. *Fraudulent Inducement To Execute Personal Guaranty: See* Section 2(a)(vi), *supra.*

vi. *Fraudulent Inducement to Extend Unsecured Loan to SIG: See* Section 2(a)(vii), *supra.*

j. **Joseph S. Littenberg ("Littenberg"):**

i. *Fraudulent Financial Information: See* Section 2(b)(i), *supra,* as to the cover-up of looting only.

ii. *Looting: See* Section 2(a)(iii), *supra.*

iii. *Attempted Options Fraud: See* Section 2(a)(iv), *supra.*

iv. *Fraudulent Termination of Beck for Cause: See* Section 2(a)(v), *supra.*

v. *Fraudulent Inducement To Execute Personal Guaranty:* See Section 2(a)(vi), *supra.*

vi. *Fraudulent Inducement to Extend Unsecured Loan to SIG: See* Section 2(a)(vii), *supra.*

3. List the alleged wrongdoers, other than the defendants listed above, and state the alleged misconduct of each wrongdoer:

a. Lampf, Lipkind, Prupis & Petigrow, P.C. ("Lampf Lipkind"): Conspired and assisted the defendants in much of the above-described conduct. In addition, provided unnecessary legal services, charged excessive rates,

and operated under a conflict-of-interest, assisting in the looting of SIG.

b. Firemark Consultants, Inc., its employees, agents and representatives, including Michael J. Morrissey and Joanne S. Morrissey: Conspired to fabricate causes for Beck's termination.

c. Stuart Glasser: Recipient of $500,000.00 payment, the funds for which had been improperly diverted from SIG's subsidiaries by the defendants.

4. List the alleged victims and state how each victim was allegedly injured:

a. Robert A. Beck, II:

i. The defendants fraudulently created causes and fraudulently caused SIG to terminate Beck "for cause" so that they could continue and preserve their racketeering activity, prevent Beck from effectively "blowing the whistle," and, at the same time, avoid their enterprise being liable to Beck for damages for breach of contract. The defendants also damaged Beck's reputation so that his claims of their improper acts would not be believed and also so that he could be a scapegoat they could blame for their improper activities.

ii. The defendants fraudulently induced Beck to personally guaranty [sic] a $7.5 million loan. The guaranty was triggered as a result of the defendants' looting and other illegal conduct.

iii. Beck was fraudulently induced to loan $150,000 to SIG.

iv. Beck was induced to be a shareholder in SIG. By looting SIG and the engaging in their illegal conduct, the Defendants caused the value of Beck's stock to greatly depreciate.

b. SIG's Shareholders and Creditors: By looting SIG and its subsidiaries, and engaging in illegal conduct, the defendants caused SIG to become insolvent. This greatly damaged SIG's shareholders and creditors, most of which were fraudulently induced by the defendants to invest in and/or loan to SIG in the first place.

c. Construction Design Real Estate, Inc., JJW Construction, Inc., Chief Structures, Inc., McKamish Chesapeake, Inc., ID&T Drywall, Inc., All Bright Electric, Inc., Shoemaker Plumbing Co., SCR Drywall, Inc., C.I.P.I. Corp., Agmilu & Co., Ahmad Construction Co., AAV Construction Co., and Dale Construction Co.: These are some of the contractors who the defendants extorted into paying illegal fees in order to obtain surety bonds from SIG and its subsidiaries.

d. First Fidelity Bank: The defendants fraudulently induced First Fidelity Bank into making a $7.5 million loan to SIG.

e. Insurance Regulators: Provided with fraudulent information.

f. The United States Government: Provided with fraudulent information.

5. (a, b and c). Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim:

The defendants committed the following indictable racketeering acts – mail fraud, wire fraud and extortion:

In December of 1987, R. PRUPIS caused the life insurance application for Allen Aldrich, the president of Aldrich Construction, to be mailed from SIG to the insurer in California.

In or around December of 1987, Allen Aldrich signed and mailed the life application and his check to SIG from New Jersey to Florida.

Shortly thereafter, SIG mailed Mr. Aldrich's life application and his check to the life insurance company in California.

In or around April of 1988, the life insurance company mailed the life insurance policy insuring Mr. Aldrich to SIG from California to Florida.

Shortly thereafter, SIG mailed a copy of the life insurance policy to BELLEZZA.

On or about June 22, 1988, N. PRUPIS mailed Linda Burton a letter from New Jersey to Florida in which he requested her to sign a statement which he knew to be false, stating that she had never told anyone that the McKamish bonds had been approved by SIG's Board.

On or about November 11, 1988, ID&T Drywall, Inc. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its

failure to make payment "could seriously damage [its] ability to receive future bonding."

On or about November 11, 1988, All Bright Electric, Inc. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

On or about November 11, 1988, Shoemaker Plumbing Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

On or about November 11, 1988, SCR Drywall, Inc. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

On or about December 20, 1988, C.I.P.I. Corp. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

On or about December 20, 1988, Agmilu & Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

On or about December 20, 1988, Ahmad Construction Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened

that its failure to make payment "could seriously damage [its] ability to receive future bonding."

On or about December 20, 1988, AAV Construction Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

On or about December 20, 1988, Dale Construction Co. was mailed a bill from CPC for payment of illegal fees. In the past due letter, the contractor was threatened that its failure to make payment "could seriously damage [its] ability to receive future bonding."

In or around April of 1986, BELLEZZA contacted Linda Burton via telephone in Florida from New Jersey, and told her to issue bonds for Aldrich Construction, stating that he would be financially responsible for any losses resulting from the bonds.

In 1987, BELLEZZA, from New Jersey, telephoned R. PRUPIS, in Florida, and discussed lending R. PRUPIS the money to pay off the loan on R. PRUPIS' condominium to SIG.

Also in 1987, BELLEZZA wired $75,000 from New Jersey to Capital Bank for R. PRUPIS.

In or around May of 1987, BELLEZZA telephoned Linda Burton in Florida from New Jersey, to discuss the fee amounts which JJW would pay.

In or around July of 1987, BELLEZZA and Walsh had a telephone conversation (New Jersey to Florida) in which they discussed the fee which would be payable by

JJW to CPC, in addition to the bond premium, to enable JJW to secure the Wellesley Inn Miami Lakes bond.

In or around July of 1987, BELLEZZA, from New Jersey, called Terry Westling, in Florida, and told her to work with his New Jersey attorney, Elliot Kramer of Lampf, Lipkind, to draft the new agreement for execution by JJW.

In or around July of 1987, Ms. Westling telecopied copies of the original agreement to Kramer in New Jersey.

In or around July of 1987, Mr. Kramer amended the original agreement, and on or about that same day telecopied the draft back to Ms. Westling in Florida.

In or around July of 1987, Ms. Westling had the draft retyped, and telecopied copies to BELLEZZA and Kramer for their approval.

In or around July of 1987, Mr. Kramer told Ms. Westling over the telephone (New Jersey to Florida) that the newly drafted agreements were correct.

In or around July of 1987, BELLEZZA directed Ms. Westling via telephone, from New Jersey to Florida, to call Walsh and tell him that he could come to the CPC office and execute the agreement.

In or around September of 1987, Linda Burton, from Florida, informed BELLEZZA, in New Jersey, via telephone, that she needed his signature on the JJW general indemnity agreement.

In or around September of 1987, BELLEZZA, in New Jersey, discussed with R. PRUPIS, in Florida, via telephone, the terms of the September 10, 1987 agreement

with Chief and the terms of BELLEZZA's agreement to indemnify Chief.

On or about September 21, 1987, BELLEZZA sent R. PRUPIS by telecopy, from New Jersey to Florida, a copy of material prepared by Smith Barney to value SIG securities for a debt to equity exchange offering.

On or about December 8, 1987, N. PRUPIS, from New Jersey, telephoned Lynn Day, in Florida, and directed him to telecopy SIG's financial estimates for December 31, 1987. These estimates contained fraudulent financial information.

On or about December 8, 1987, Lynn Day, as directed, telecopied, from Florida, the financial estimates to N. PRUPIS in New Jersey.

In or around December of 1987, BELLEZZA from New Jersey, told Linda Burton, in Florida, via telephone, that he would post a $100,000 letter of credit to satisfy the requirements of a contractor that had applied for bonds to SIG, Cox & Palmer, Inc., for a fee to BELLEZZA, personally, of $40,000.

In or around December of 1987, R. PRUPIS, in Florida, and N. PRUPIS, in New Jersey, spoke via telephone regarding the First Fidelity Bank loan and the personal guarantees.

In 1987 and until May of 1988, unnecessary limousine reservations were made via telephone calls from Florida for SIG personnel traveling to New Jersey. Teresa Waldron, acting at the direction of N. PRUPIS and R. PRUPIS, made at least one of these reservations with Livingston Five Star Limousine.

In or around January of 1988, N. PRUPIS and BELLEZZA, from New Jersey, telephoned R. PRUPIS, in Florida, and discussed and approved the sale of R. PRUPIS' house to Linda Burton, with the accompanying mortgage from SIG.

All Aldrich bonds were approved via telephone or telecopy by BELLEZZA in New Jersey to SIG employees in Florida, including BELLEZZA's approval on the Aldrich bond to the County of Essex, New Jersey on or about February 24, 1988.

In or around February of 1988, BELLEZZA, in New Jersey, instructed Theresa Westling, in Florida, via the telephone, to get Valerie Bellezza's check out.

In or around April of 1988, BELLEZZA, from New Jersey, instructed Linda Burton, in Florida, via the telephone, that the McKamish bonds were to be approved, but he wanted a "piece of the action."

In or around April of 1988, BELLEZZA approved the McKamish bonds in a telephone conversation from New Jersey to Linda Burton, in Florida.

In or around April of 1988, PAULUS approved the McKamish bonds in a telephone conversations from New Jersey to Linda Burton, in Florida.

On or about April 18, 1988, Carl Shible, in Florida, received a telephone call from MEZEY, in New Jersey, who told Shible that the New Jersey directors had been meeting without N. PRUPIS and discussing the excessive spending of R. PRUPIS.

On or about April 18, 1988, Shible, in Florida, received a telephone call from OLSTEIN, in New Jersey,

who told Shible that the New Jersey directors had been meeting without N. PRUPIS and discussing the excessive spending of R. PRUPIS.

On or about April 19, 1988, Shible, in Florida, received a telephone call from MEZEY, from New Jersey. MEZEY told Shible that BELLEZZA and PAULUS wanted to tell N. PRUPIS that they were concerned about the activities of R. PRUPIS. MEZEY asked Shible to ask BECK if Robert A. Beck, Sr. would serve on the Board. All of these phone calls to Shible were designed to fraudulently lead Shible and Beck to believe that the improper activity at SIG would be corrected.

On or about April 21, 1988, BECK and Shible, from Florida, talked by telephone with MEZEY, in New Jersey. MEZEY told BECK and Shible that, at the recent directors meeting, it had been decided to engage a consulting firm to examine the operations of SIG.

On or about May 1, 1988, BELLEZZA, in New Jersey, telephoned BECK, in Florida. BELLEZZA told BECK that he had become convinced that R. PRUPIS should be removed from his position and asked BECK to keep things calm for the next two weeks. BELLEZZA thus fraudulently led BECK to believe that the improper activities at SIG would be corrected and that BECK would remain. This was done in an attempt to prevent BECK from talking to the authorities or the press, until he could be discredited and neutralized.

In or around June of 1988, N. PRUPIS, from New Jersey, called Linda Burton, in Florida, and asked her to sign a false statement addressed to LIPKIND to the effect that the directors had not approved the McKamish bond

request. In fact, BELLEZZA and PAULUS had approved the request. This request was part of an effort to cover up BELLEZZA's manipulation of underwriting requirements to extort money from contractors seeking bonds from the SIG insurance subsidiaries.

From in or around December of 1987 until in or around July of 1988, BELLEZZA, R. PRUPIS, and PERSHES extorted CDR.

From in or around May of 1987 until in or around the fall of 1988, BELLEZZA, PAULUS, R. PRUPIS, N. PRUPIS, PERSHES and LIPKIND extorted JJW.

From in or around the summer of 1987 until in or around July of 1988, BELLEZZA, PAULUS, R. PRUPIS, N. PRUPIS, and PERSHES extorted Chief.

In or around the spring of 1988, BELLEZZA, PAULUS, R. PRUPIS, N. PRUPIS, PERSHES and LIPKIND extorted McKamish.

d. State whether there has been a criminal conviction for violation of the predicate acts:

No.

e. State whether civil litigation has resulted in a judgment in regard to the predicate acts:

Yes – a judgment has been entered in favor of First Fidelity Bank.

f. Describe how the predicate acts form a "pattern of racketeering activity":

The predicate acts form a "pattern of racketeering activity" in that they were all committed in furtherance

of, and reveal a scheme and artifice to defraud and to obtain money and property from Beck, scores of construction companies, shareholders, creditors and governmental entities by means of false and fraudulent pretenses, representations and promises, and to obstruct, delay and affect interstate commerce by means of extortion.

The illegal acts committed by the Defendants were not sporadic or isolated incidents. The multiple acts of racketeering activity by the Defendants were interrelated, formed part of a common and continuous pattern of fraudulent schemes that were perpetrated over several years with the same or similar intent, were committed by the same or similar methods, and had the same or similar victims.

g. State whether the alleged predicate acts relate to each other as part of a common plan:

The predicate acts relate to each other as part of a common plan by which the defendants sought to profit from the enterprise by means of fraud and extortion. The predicate acts were committed in furtherance of this plan. Through the predicate acts, SIG and its subsidiaries were looted and scores of construction companies were extorted. Moreover, Beck and other shareholders and creditors were defrauded into turning over substantial funds to the defendants' enterprise. When Beck became a threat to the defendants' continued criminal conduct, the defendants committed several criminal acts to silence and neutralize Beck. Other criminal, predicate acts were employed to keep the truth from insurance regulators

and other governmental entities so that the Defendants could continue their improper conduct.

6. (a and b). Describe in detail the alleged enterprise for each RICO claim:

The enterprise, SIG, is composed of a holding company and several operating subsidiaries, the majority of which were engaged in the surety/insurance industry.

(c, d, e and f). State whether any defendants are employees, officers, or directors of the alleged enterprise:

The defendants were all either senior officers or directors of SIG. As such, they are not the enterprise, itself. None of the defendants are *merely* associated with the enterprise. All of the defendants are perpetrators of the alleged racketeering activity.

7. State and describe in detail whether you are alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity:

The pattern of racketeering activity alleged and the enterprise are separate and have not merged into one entity. The enterprise itself consisted of a holding company and its subsidiaries, which are involved primarily in the insurance industry. The pattern of racketeering activity is the manifestation of the defendants' plan to use fraud and extortion in the conduct of the enterprise's affairs for pecuniary gain. The corporations themselves were not a "pattern of racketeering activity" and, although such activity was extensive, not all of the enterprise's business was conducted in this manner.

8. Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual and daily activities of the enterprise, if at all:

The enterprise dealt primarily with insurance and surety. The pattern of racketeering activity played a significant role in the manner in which the defendants conducted the enterprise. Construction companies desiring bonds were extorted. Records and financial statements were falsified. The enterprise was looted by the defendants. Employees were "paid off" to either participate or remain silent. While the pattern of racketeering was extensive, not all of the enterprise's daily activities were conducted in this fashion.

9. Describe what benefits, if any, the alleged enterprise received from the alleged pattern of racketeering:

The enterprise did receive some short-term benefits from the pattern of racketeering activity (such as investments, loans and extortion proceeds). As part of the pattern of racketeering activity, however, the defendants looted SIG, causing its eventual failure.

10. Describe the effect of the activities of the enterprise on interstate or foreign commerce:

The activities of the enterprise affected interstate commerce in, at least, the following ways: (1) the enterprise was involved in the interstate use of mail and wires; (2) the enterprise used materials and supplies manufactured outside the state; (3) the enterprise provided its insurance services both to out-of-state firms and to local

firms that do business out-of-state; (4) the majority of the enterprise's senior officers and directors were citizens of other states; (5) many of the enterprise's shareholders and creditors were based in other states; and (6) many of the contractors that the defendants extorted through its corrupt use of the enterprise were involved in matters which affect interstate commerce.

11. If the complaint alleges a violation of 18 U.S.C. §1962(a), provide the following information:

a. State who received the income derived from the pattern of racketeering activity or through the collection of an unlawful debt:

The income derived from the pattern of racketeering activity was received by all of the defendants in the form of salaries, dividends, commissions, interest and other fees as a result of their participation in the racketeering activity.

b. Describe the use or investment of such income:

Each of these defendants used or invested, directly or indirectly, all or a part of that income to maintain their illegitimate interest in SIG. For example, the defendants utilized this income to loan money to and/or invest in SIG, commit predicate acts, discredit Beck, and buy the loyalty/silence of numerous individuals.

12. If the complaint alleges a violation of 18 U.S.C. §1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise:

Each of the defendants used or invested, directly or indirectly, all or a part of the above-described income to maintain their interest in or control of SIG. *See* Answer to Question 7, *supra*. For example, some of this income was used by the defendants to invest in and/or extend loans to SIG, to facilitate predicate acts, and to buy the loyalty/silence of numerous individuals.

13. If the complaint alleges a violation of 18 U.S.C. §1962(c), provide the following information:

a. State who is employed by or associated with the enterprise:

All defendants.

b. State whether the same entity is both the liable "person" and the "enterprise" under §1962(c):

No.

14. If the complaint alleges a violation of 18 U.S.C. §1962(d), describe in detail the alleged conspiracy:

The defendants agreed and conspired among themselves and with others to engage, directly and indirectly, in the conduct of the enterprise's affairs through a pattern of racketeering activity; to use income or the proceeds of income derived from the pattern of racketeering to establish and operate the enterprise; and to acquire and maintain an interest and control of the enterprise. *See also* Answers to Questions 2, 5, 11 and 12, *supra*.

15. Describe the alleged injury to business or property:

See Answer to Question 17, *infra*.

16. Describe the direct causal relationship between the alleged injury and the violation of the RICO statute:

As a direct result of the defendants' scheme and artifice, Beck was induced to personally guarantee loans and extend credit to/invest in SIG. The defendants' continued violations of the RICO statute resulted in the failure of SIG, causing substantial losses to Beck. Additionally, the defendants fraudulently created causes to terminate Beck and fraudulently damaged his reputation to neutralize his threat to and to create a scapegoat for their continued pattern of racketeering activity.

17. List the damages sustained by reason of the violation of §1962, indicating the amount for which each defendant is liable for treble damages:

Beck suffered the following damages by reason of the defendants' violations of §1962, for which each defendant is liable for treble damages:

TYPE OF INJURY	AMOUNT
Unsecured Loan to SIG	$150,000.00
Loss of Employment	$1,368,741.00
Guaranty of Loan	unknown at this time
Loss of Stock Value	$828,234.00
Attorneys' Fees	unknown at this time
Costs	unknown at this time

18. List all other federal causes of action, if any, and provide the relevant statute numbers:

None.

19. Provide any additional information that you feel would be helpful to the court in processing your RICO claim.

Beck's claims were originally crossclaims/third party claims in a New Jersey federal action by investors and shareholders of SIG against the defendants and others. Beck's claims were severed and transferred to the Southern District of Florida. The attorneys who represented the investors/shareholders of SIG in the original action were disqualified as a result of a conflict of interest. Thereafter, the plaintiffs' in that action were unable to pursue the claim due to a lack of funding.

Respectfully submitted,

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By: /s/ Jay Starkman
Jay Starkman
Fla. Bar No. 771953

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. mail this 26th day of April, 1994 to all counsel on that attached service list.

By: /s/ Jay Starkman
Jay Starkman

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Sabato

Exhibit "A"
Defendant Beck's Crossclaim and
Third Party Complaint
Case No. 89-3389xx AJL
Appears at pages 54 to 136 of this Joint Appendix
and, therefore, is not duplicated here

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ROBERT A. BECK, II,

Plaintiff,

v.

RONALD M. PRUPIS, et al.,

Defendants.
_____/

CASE NO. 91-8121-CIV-ROETTGER

ANSWER OF DEFENDANTS BELLEZZA, OLSTEIN, PAULUS AND SABATO TO PLAINTIFF ROBERT A. BECK, II'S CROSSCLAIMS AND THIRD-PARTY CLAIM

Third-party defendants Leonard Bellezza ("Bellezza"), Harry Olstein ("Olstein"), William Paulus, Jr. ("Paulus") and Ernest Sabato ("Sabato") by way of answer to crossclaims and third-party claims of Robert A. Beck, II ("Beck") state as follows:

I. NATURE OF THE ACTION

1. Third-party defendants deny the allegations contained in paragraph 1.

2. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 2.

3. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 3.

II. THE PARTIES

4. These third-party defendants have insufficient knowledge to form a belief as to Beck's residency. These third-party defendants admit that until May 13, 1986 Beck was president of Southeastern Insurance Group, Inc. ("SIG").

5. These third-party defendants admit that they are citizens of the State of New Jersey. These third-party defendants have in sufficient [sic]-knowledge to form a belief as to the remaining allegations contained in paragraph 5.

6. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations regarding Firemark's principal place of business. Third-party defendants deny that Firemark was an agent of the senior officers and directors of SIG, but admit that Firemark was a consultant to SIG. These third-party defendants have insufficient knowledge to form a belief as to the truth of the remaining allegations contained in paragraph 6.

7. These third-party defendants admit that SIG was a Florida corporation which, until January 5, 1990, had its principal place of business in Florida and that on January 5, 1990, SIG filed a petition for bankruptcy in the Southern District of Florida. These defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 7.

8. These third-party defendants deny the allegations contained in paragraph 8.

9. These third-party defendants deny each and every allegation contained in paragraph 9.

10. These third-party defendants deny the allegations contained in paragraph 10.

III. GENERAL ALLEGATIONS

A. SCHEME AND ARTIFICE TO DEFRAUD, TO OBTAIN MONEY AND PROPERTY AND TO INTERFERE WITH COMMERCE BY MEANS OF EXTORTION

11. These third-party defendants deny each and every allegation contained in paragraph 11.

12. These third-party defendants deny each and every allegation contained in paragraph 12.

13. These third-party defendants deny each and every allegation contained in paragraph 13.

14. These third-party defendants deny each and every allegation contained in paragraph 14.

15. These third-party defendants deny each and every allegation contained in paragraph 15.

16. These third-party defendants deny each and every allegation contained in paragraph 16.

17. These third-party defendants deny each and every allegation contained in paragraph 17.

a. Fraudulent Financial Statements

18. These third-party defendants deny each and every allegation contained in paragraph 18.

19. These third-party defendants deny each and every allegation contained in paragraph 19.

20. These third-party defendants deny each and every allegation contained in paragraph 20.

21. These third-party defendants deny each and every allegation contained in paragraph 21.

22. These third-party defendants deny each and every allegation contained in paragraph 22.

b. Extortion of Contractors

23. These third-party defendants deny each and every allegation contained in paragraph 23.

24. These third-party defendants deny each and every allegation contained in paragraph 24.

25. These third-party defendants deny each and every allegation contained in paragraph 25.

26. These third-party defendants deny each and every allegation contained in paragraph 26.

27. These third-party defendants deny each and every allegation contained in paragraph 27.

28. These third-party defendants deny each and every allegation contained in paragraph 28.

29. These third-partly defendants deny each and every allegation contained in paragraph 29.

30. These third-party defendants deny each and every allegation contained in paragraph 30.

c. **Aside Fraud**

31. These third-party defendants deny each and every allegation contained in paragraph 31.

d. **Fraudulent Promises to Identify**

32. These third-party defendants deny each and every allegation contained in paragraph 32

e. **Compensation Committee Abuses**

33. These third-party defendants deny each and every allegation contained in paragraph 33.

f. **Improper and Unnecessary Legal Fees**

34. The allegations contained in paragraph 34 do not refer to these third-party defendants and are therefore denied.

35. The allegations contained in paragraph 35 do not refer to these third-party defendants and are therefore denied.

g. **Attempted Options Fraud**

36. These third-party defendants deny each and every allegation contained in paragraph 36.

h. **Other Abuses**

37. These third-party defendants deny each and every allegation contained in paragraph 37.

38. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 38.

39. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 39.

40. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 40.

41. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 41.

B. **RACKETEERING ACTIVITY DIRECTED AGAINST BECK**

42. These third-party defendants deny each and every allegation contained in paragraph 42.

a. **Termination "For Cause"**

43. These third-party defendants admit the allegations contained in paragraph 43.

44. These third-party defendants deny each and every allegation contained in paragraph 44.

45. These third-party defendants deny each and every allegation contained in paragraph 45.

46. These third-party defendants deny each and every allegation contained in paragraph 46.

47. These third-party defendants deny each and every allegation contained in paragraph 47.

48. These third-party defendants deny each and every allegation contained in paragraph 48.

49. These third-party defendants deny each and every allegation contained in paragraph 49.

50. These third-party defendants deny each and every allegation contained in paragraph 50.

51. These third-party defendants deny each and every allegation contained in paragraph 51.

52. These third-party defendants deny each and every allegation contained in paragraph 52.

53. These third-party defendants deny each and every allegation contained in paragraph 53.

54. These third-party defendants deny each and every allegation contained in paragraph 54.

55. These third-party defendants deny each and every allegation contained in paragraph 55.

56. These third-party defendants admit the allegations contained in paragraph 56.

57. These third-party defendants deny each and every allegation contained in paragraph 57.

58. These third-party defendants admit the allegations contained in paragraph 58.

59. These third-party defendants deny each and every allegation contained in paragraph 59.

60. These third-party defendants deny each and every allegation contained in paragraph 60.

b. Personal Guarantees

61. These third-party defendants deny each and every allegation contained in paragraph 61.

62. These third-party defendants deny each and every allegation contained in paragraph 62.

63. These third-party defendants deny each and every allegation contained in paragraph 63.

64. These third-party defendants deny each and every allegation contained in paragraph 64.

65. These third-party defendants deny each and every allegation contained in paragraph 65.

66. These third-party defendants deny each and every allegation contained in paragraph 66.

67. These third-party defendants deny each and every allegation contained in paragraph 67.

68. These third-party defendants deny each and every allegation contained in paragraph 68.

69. These third-party defendants deny each and every allegation contained in paragraph 69.

70. These third-party defendants deny each and every allegation contained in paragraph 70.

71. These third-party defendants deny each and every allegation contained in paragraph 71.

72. These third-party defendants deny each and every allegation contained in paragraph 72.

73. These third-party defendants deny each and every allegation contained in paragraph 73.

c. **Unsecured Loan**

74. These third-party defendants do not have sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 74.

75. These third-party defendants deny each and every allegation contained in paragraph 75.

76. These third-party defendants deny each and every allegation contained in paragraph 76.

77. These third-party defendants deny each and every allegation contained in paragraph 77.

78. These third-party defendants deny each and every allegation contained in paragraph 78.

d. **Predicate Acts**

79. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 79.

80. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 80.

81. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 81.

82. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 82.

83. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 83.

84. These third-party defendants deny each and every allegation contained in paragraph 84.

85. These third-party defendants deny each and every allegation contained in paragraph 85.

86. These third-party defendants deny each and every allegation contained in paragraph 86.

87. These third-party defendants deny each and every allegation contained in paragraph 87.

88. These third-party defendants deny each and every allegation contained in paragraph 88.

89. These third-party defendants deny each and every allegation contained in paragraph 89.

90. These third-party defendants deny each and every allegation contained in paragraph 90.

91. These third-party defendants deny each and every allegation contained in paragraph 91.

92. These third-party defendants deny each and every allegation contained in paragraph 92.

93. These third-party defendants deny each and every allegation contained in paragraph 93.

94. These third-party defendants deny each and every allegation contained in paragraph 94.

95. These third-party defendants deny each and every allegation contained in paragraph 95.

96. These third-party defendants deny each and every allegation contained in paragraph 96.

97. These third-party defendants deny each and every allegation contained in paragraph 97.

98 . These third-party defendants deny each and every allegation contained in paragraph 98.

99. These third-party defendants deny each and every allegation contained in paragraph 99.

100. These third-party defendants deny each and every allegation contained in paragraph 100.

101. These third-party defendants deny each and every allegation contained in paragraph 101.

102. These third-party defendants deny each and every allegation contained in paragraph 102.

103. These third-party defendants deny each and every allegation contained in paragraph 103.

104. These third-party defendants deny each and every allegation contained in paragraph 104.

105. These third-party defendants deny each and every allegation contained in paragraph 105.

106. These third-party defendants deny each and every allegation contained in paragraph 106.

107. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegation contained in paragraph 107.

108. These third-party defendants deny each and every allegation contained in paragraph 108.

109. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 109.

110. These third-party defendants deny each and every allegation contained in paragraph 110.

111. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 111.

112. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 112.

113. These third-party defendants deny each and every allegation contained in paragraph 113.

114. These third-party defendants deny each and every allegation contained in paragraph 114.

115. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 115.

116. These third-party defendants deny each and every allegation contained in paragraph 116.

117. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 117.

118. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 118.

119. These third-party defendants do not have sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 119.

120. These third-party defendants do not have sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 120.

121. These third-party defendants deny each and every allegation contained in paragraph 121.

122. These third-party defendants have insufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 122.

123. These third-party defendants deny each and every allegation contained in paragraph 123.

124. These third-party defendants deny each and every allegation contained in paragraph 124.

125. These third-party defendants deny each and every allegation contained in paragraph 125.

126. These third-party defendants deny each and every allegation contained in paragraph 126.

127. These third-party defendants deny each and every allegation contained in paragraph 127.

128. These third-party defendants deny each and every allegation contained in paragraph 128.

COUNT I

129. These third-party defendants repeat their answers to paragraphs 1 through 128 as if fully set forth herein at length.

130. These third-party defendants deny each and every allegation contained in paragraph 130.

131. These third-party defendants deny each and every allegation contained in paragraph 131.

132. These third-party defendants deny each and every allegation contained in paragraph 132.

133. These third-party defendants deny each and every allegation contained in paragraph 133.

134. These third-party defendants deny each and every allegation contained in paragraph 134.

135. These third-party defendants deny each and every allegation contained in paragraph 134 [sic].

COUNT II

136. These third-party defendants repeat their answers to paragraphs 1 through 132 and 135 as if fully set forth herein at length.

137. These third-party defendants deny each and every allegation contained in paragraph 137.

138. These third-party defendants deny each and every allegation contained in paragraph 138.

COUNT III

139. These third-party defendants repeat their answers to paragraphs 1 through 132 and 135 as if fully set forth herein at length.

140. These third-party defendants deny each and every allegation contained in paragraph 140.

141. These third-party defendants deny each and every allegation contained in paragraph 141.

COUNT IV

142. These third-party defendants repeat their answers to paragraphs 1 through 141 as if fully set forth herein at length.

143. These third-party defendants deny each and every allegation contained in paragraph 143.

144. These third-party defendants deny each and every allegation contained in paragraph 144.

145. These third-party defendants deny each and every allegation contained in paragraph 145.

COUNT V

146. These third-party defendants repeat their answers to paragraphs 1 through 78 as if fully set forth herein at length.

147. These third-party defendants deny each and every allegation contained in paragraph 147.

148. These third-party defendants deny each and every allegation contained in paragraph 148.

149. These third-party defendants deny each and every allegation contained in paragraph 149.

150. These third-party defendants deny each and every allegation contained in paragraph 150.

151. These third-party defendants deny each and every allegation contained in paragraph 151.

COUNT VI

152. These third-party defendants repeat their answers to paragraphs 1 through 78 and 147 through 150 as if fully set forth herein at length.

153. These third-party defendants deny each and every allegation contained in paragraph 153.

COUNT VII

154. These third-party defendants repeat their answers to paragraphs 1 through 78 as if fully set forth herein at length.

155. These third-party defendants deny each and every allegation contained in paragraph 155.

156. These third-party defendants deny each and every allegation contained in paragraph 156.

157. These third-party defendants deny each and every allegation contained in paragraph 157.

158. These third-party defendants deny each and every allegation contained in paragraph 158.

159. These third-party defendants deny each and every allegation contained in paragraph 159.

COUNT VIII

160. These third-party defendants repeat their answers to paragraphs 1 through 78 and 155 through 158 as if fully set forth herein at length.

161. These third-party defendants deny each and every allegation contained in paragraph 161.

COUNT IX

162. These third-party defendants repeat their answers to paragraphs 1 through 78 as if fully set forth herein at length.

163. These third-party defendants deny each and every allegation contained in paragraph 163.

164. These third-party defendants deny each and every allegation contained in paragraph 162 [sic].

165. These third-party defendants deny each and every allegation contained in paragraph 165.

166. These third-party defendants deny each and every allegation contained in paragraph 166.

167. These third-party defendants deny each and every allegation contained in paragraph 167.

168. These third-party defendants deny each and every allegation contained in paragraph 168.

COUNT X

169. These third-party defendants repeat their answers to paragraphs I through 78 and 163 through 167 as if fully set forth herein at length.

170. These third-party defendants deny each and every allegation contained in paragraph 168 [sic].

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Beck has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Beck's claims are barred by the doctrine of collateral estoppel.

THIRD AFFIRMATIVE DEFENSE

Beck's claims are barred by the doctrine of *res judicata*.

FOURTH AFFIRMATIVE DEFENSE

Beck's claims are barred by the applicable law of this Circuit.

FIFTH AFFIRMATIVE DEFENSE

Beck's claims are barred by the doctrine of unclean hands.

SIXTH AFFIRMATIVE DEFENSE

Beck's claims are barred by the doctrine of judicial estoppel.

SEVENTH AFFIRMATIVE DEFENSE

Beck's claims must be stayed due to the filing of personal bankruptcy by defendant, Ronald M. Prupis.

EIGHTH AFFIRMATIVE DEFENSE

In exercising their responsibilities, defendants Bellezza, Olstein, Paulus and Sabato relied upon the advice of their advisors and consultants, and therefore acted in good faith.

NINTH AFFIRMATIVE DEFENSE

In exercising their responsibilities, defendants Bellezza, Olstein, Paulus and Sabato relied upon the advice and reports of Beck.

CROSS-CLAIMS

FIRST COUNT

1. To the extent Beck's crossclaims and third-party claims allege mismanagement, and while denying any acts of mismanagement and while also denying any acts which comprise Beck's RICO predicate acts, defendants Bellezza, Olstein, Paulus and Sabato are entitled to contribution from their co-Board members and officers for all

decisions made by the Board which allegedly bear upon the allegations of the complaint.

WHEREFORE, defendants Bellezza, Olstein, Paulus and Sabato demand a judgment for contribution from the remaining defendants.

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By: /s/ Kenneth R. Hartmann
KENNETH R. HARTMANN
Florida Bar No. 664286

DATED: August 15, 1994

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to all parties on the attached service list on this 15th day of August, 1994.

By: /s/ Kenneth R. Hartmann
KENNETH R. HARTMANN

Beck v. Prupis, et al.
Case No. 91-8121-CIV-ROETTGER

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 91-8121-CIV-ROETTGER

ROBERT A. BECK, II,

Plaintiff,

v.

ROBERT M. PRUPIS, et al.

Defendants.

_____/

DEFENDANT BELLEZZA GROUP'S MOTION FOR SUMMARY JUDGMENT

Defendants Leonard Bellezza, Ernest J. Sabato, William Paulus and Harry Olstein ("the Bellezza Group"), by and through their undersigned counsel hereby move the Court pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 7.5 of the Local Rules of the United States District Court for the Southern District of Florida, for entry of Summary Judgment on all claims asserted against the Bellezza Group in Plaintiff ROBERT A. BECK II's ("Beck"), Cross Claim and Third-Party Claim ("Complaint"), and in support thereof states as follows:

This is an action by plaintiff seeking damages against eleven former officers and directors of Southeastern Insurance group, Inc. ("SIG") for their alleged violation of the Racketeer Influenced and Corrupt Organizations Act 18 U.S.C. § 1961 *et. seq.* ("RICO") and of Florida common law. Beck is a disgruntled ex-President, former shareholder and creditor of SIG who alleges that defendants carried on the affairs of SIG through a pattern of

racketeering activity directed at third parties, which had the effect of injuring SIG and its operating insurance subsidiaries.

As set forth in the accompanying Memorandum of Law, however, Beck merely alleges damages that occurred only *derivatively*, as an indirect result of SIG's demise and bankruptcy. The law of the Eleventh Circuit, and every other Court in the United States, is that shareholders, creditors, and terminated employees do not have standing under RICO to sue for racketeering injuries sustained directly by the corporation and only derivatively by them.

Therefore, there being no genuine issue of material fact, the RICO claims (Counts I through IV) must be dismissed as a matter of law. For the same reasons, the common law claims (Counts V through X) must be dismissed as well. Even if the Court does not dismiss the common law claims on substantive grounds, if the court dismisses the RICO claims it should decline to exercise supplemental jurisdiction over the common law claims. 28 U.S.C. § 1367(c)(3).

WHEREFORE, defendants Leonard Bellezza, Ernest J. Sabato, William Paulus and Harry Olstein respectfully

request that this Court grant their Motion for Summary Judgment and dismiss Plaintiff's Complaint.

Respectfully submitted,

BUDD LARNER GROSS
ROSENBAUM GREENBERG &
SADE, P.C.
Attorneys for Defendants
Leonard Bellezza, Harry Olstein,
William Paulus, Jr. and
Ernest J. Sabato

BY: _____
MICHAEL M. ROSENBAUM

DATED: March 29, 1995

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the following:

1. Defendant Bellezza Group's Motion for Summary Judgment

2. Memorandum of Law in Support of Defendants' The Bellezza Group's Motion for Summary Judgment

3. Defendants the Bellezza Group's Statement of Material Facts

4. Defendant Bellezza Group's Request for Oral Argument on Motion for Summary Judgment

was hand-delivered to Jay Starkman, Esq., Starkman & Magolnick, P.A., Museum Tower, Suite 2701, 150 West Flagler Street, Miami, Florida, and furnished by U.S. Mail

this 30th day of March, 1995 to all counsel of record as listed on the attached service list.

By: Kenneth R. Hartmann
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Beck v. Prupis, et al.
Case No. 91-8121-CIV-ROETTGER
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 91-8121-CIV-ROETTGER

ROBERT A. BECK, II,

Plaintiff,

v.

ROBERT M. PRUPIS, et al.

Defendants.
_____/

DEFENDANTS THE BELLEZZA GROUP'S STATEMENT OF MATERIAL FACTS

Defendants Leonard Bellezza, William Paulus, Ernest J. Sabato, and Harry Olstein (the "Bellezza Group"), by and through their undersigned counsel hereby file this Statement of Material Facts in support of their Motion for Summary Judgment, and state as follows:

For the purposes of this summary judgment motion only, we have relied on Mr. Beck's allegations in his RICO case information statement ("CIS") and his deposition. Assuming the accuracy of Mr. Beck's testimony, there is no RICO standing. Indeed, Mr. Beck's testimony concedes away his claim.

The Allegations

Plaintiff Robert A. Beck II is the former President, director and shareholder of Southeastern Insurance Group ("SIG"), which from 1983 until it declared bankruptcy in January 1990 was an insurance holding

company that wholly-owned three operating insurance subsidiaries: Southeastern Casualty & Indemnity Insurance Co., Inc. ("SCI-Fla"), Southeastern Casualty and Indemnity Insurance Company of New Jersey, Inc. ("SCI-NY"), and Southeastern Reinsurance Company, Inc. ("SRC") (collectively "the Insurance Subsidiaries"). The Insurance Subsidiaries wrote surety bonds for construction contractors.

Defendants Leonard Bellezza, William Paulus, Jr., Ernest Sabato, and Harry Olstein ("the Bellezza Group") were all SIG directors who Beck alleges conducted the affairs of SIG through a pattern of racketeering activity. Beck generally claims that defendants (1) allowed the Insurance Subsidiaries to charge contractors unauthorized fees; (2) allowed the Insurance Subsidiaries to loan funds to the parent corporation (SIG), who used the money to pay legitimate SIG debt, (3) and that when agreeing to guaranty a $7.5 million bank loan by First Fidelity to SIG, he was unaware of loans made by SIG to a contractor (Chief Structures) who was experiencing cash flow difficulty. Beck claims the Chief loans should have been treated as claims on the Insurance Subsidiaries' financial statements (which they were). Treating the loans as claims would reduce the profits of the Insurance Subsidiaries. (Exhibit A,[1] ¶¶ 13-41; Exhibit B, ¶2).[2]

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[1] Documents and excerpts from depositions are annexed to the Certification of Michael M. Rosenbaum dated March 28, 1995.

[2] Plaintiff's pleadings are thick with references to RICO buzzwords such as "looting" and "extortion." However, when pressed in deposition, Beck conceded that "looting" merely means that defendants made intercompany transfers to pay

As a result of these complained-of activities, Beck alleges four categories of injury he sustained, all of which flow from the demise of SIG and its Insurance Subsidiaries. He seeks damages for: (1) the loss of the value of stock that he purchased in 1983 and in a Private Placement in August 1986; (2) the loss of $150,000, an unsecured loan to SIG in the form of debenture bonds purchased in the Private Placement; (3) the loss of employment occasioned when defendants supposedly created fraudulent causes for his May 1988 termination in order to prevent him from blowing the whistle on their alleged improper activities; (4) unspecified damages arising from his personal guaranty of First Fidelity Bank's $7.5 million loan to SIG in December 1987, which SIG defaulted on when it went bankrupt. (Exhibit A, ¶¶ 13-15, 42-78, Exhibit B, ¶ 17).[3]

The Procedural History

Beck's vendetta began in May 1988, when Firemark, an independent insurance consulting firm, determined that SIG's upper management was dysfunctional and recommended the termination of Beck as SIG's President

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legitimate corporate debts; and that "extortion" merely means that, as a condition of getting a bond, contractors were sometimes required to pay monitoring fees to CPC, a SIG subsidiary that monitored the construction projects to prevent the contractors from defaulting. (Exhibit D).

[3] Counts I through IV allege violations of RICO §§ 1962(a)-(d). Counts V through X allege fraud and negligence regarding the termination of Beck's employment, his execution of the First Fidelity Guaranty, and his purchase of the debentures.

and Ron Prupis as SIG's CEO. Based on that recommendation, the Board of Directors terminated Beck and other senior officers. (Exhibit C). Claiming he was terminated because he was threatening to "blow the whistle" on those who were mismanaging SIG, Beck filed a lawsuit on May 15, 1989 in Florida state court against the officers and directors of SIG – including the Bellezza Group – alleging violations of Florida's RICO statute and various common law claims ("the Florida action") (Exhibit E). That state RICO suit made the very same RICO allegations as in this federal action.

In August 1989, just after Beck filed his Florida action, SIG shareholders – with Beck's cooperation – filed a derivative action in the federal District Court of New Jersey patterned after Beck's Florida RICO Complaint ("the shareholders action"). The shareholders sued all of SIG's officers and directors – including the Bellezza Group – for various securities and RICO violations.[4] (Exhibit F). When SIG declared bankruptcy in January 1990, the shareholders' action was taken over by SIG's bankruptcy trustee, Jules Bagdan. (Exhibit G).

Beck's RICO allegations in his Florida suit, and the shareholders' allegations in the derivative RICO action, were identical to Beck's RICO allegations here. They included claims that defendants committed the very same RICO predicate acts as set forth in this suit.

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[4] The securities claims arose out of SIG's August 1986 Private Placement of common stock and debentures (collectively "Units"). The RICO claims arose out of defendants' later conduct in 1987-89 that Beck complains about here.

On November 28, 1989, the Florida state court dismissed Beck's substantive RICO claims, holding that he lacked RICO standing to sue as a terminated whistleblower.[5] (Exhibit H). All that remained was a RICO conspiracy claim, which Beck withdrew after the Eleventh Circuit held that discharged ernployees who were threatening to "blow the whistle" did not have standing to sue for RICO damages. (Exhibit J).

Undaunted by the dismissals, and in an obvious attempt to forum shop, Beck immediately refiled his Florida RICO action as a cross-claim in the New Jersey shareholders' action. (Exhibit A). Beck's federal RICO cross-claim alleges the same series of events as those alleged in his previously-dismissed Florida action. The RICO claims brought by the shareholders and taken over by SIG's bankruptcy trustee were all ultimately dismissed. (Exhibit K). But Beck's cross-claim, for which a dismissal motion was pending, was transferred to this Court because of the forum selection clause in Beck's employment contract. (Exhibit L). The Beck Cross-claim will be referred to herein as "the Complaint."

Meanwhile, in August 1989, the Florida Department of Insurance placed the Florida Insurance Subsidiaries, SCI-Fla and SRC, into Receivership for the purpose of marshalling their assets and liquidating them. The New Jersey Department of Insurance also placed the New Jersey Insurance Subsidiary (SCI-NJ) into receivership.

---

[5] The trial judge was sufficiently dismayed at the frivolousness of Beck's RICO claims that he awarded attorneys fees to the Bellezza Group, though this fee award was vacated by the Florida appellate court. (Exhibit 1)

(Exhibit M). In late 1990 and early 1991, the Florida Receiver – with Beck's cooperation – filed actions in Florida state court on behalf of SRC and SCI-Fla against SIG officers and directors, including the Bellezza Group, making the same allegations as Beck makes here. As with the Beck complaint here, the Florida Receiver's complaint alleged improprieties concerning intracompany transfers of funds, breaches of fiduciary duty, and statutory violations, (Exhibit N), conduct identical to Beck's instant allegations of "looting" and mismanagement. The New Jersey Department of Insurance also sued the Bellezza Group and other officers and directors, claiming that a pooling agreement amongst the Insurance Subsidiaries was invalid and led to the demise of the SCI-NJ. (Exhibit O).

The New Jersey Insurance Department's suit was dismissed in June 1994, and the Florida Receiver's suits were settled. The settlement proceeds are to be used by the Florida Receiver for the benefit of the creditors, shareholders, which include SIG and its shareholders (including Beck), and bond obligees of the Florida companies. (Exhibit P). Beck certainly has no RICO standing to sue for the very same injuries which were the subject of the lawsuits brought by the Florida and New Jersey Receivers and by SIG's Bankruptcy Trustee and for which these defendants already paid a substantial settlement for the Florida Receiver. These defendants cannot be called upon to pay twice for the same alleged wrongful conduct.

As the following chart shows, the proper parties with standing – the Receiver and Bankruptcy Trustee – have already asserted the same allegations Beck makes herein in prior derivative actions:

BECK COMPLAINT	PREVIOUS LAWSUITS[6]
(1) Looting of Insurance Subsidiaries – Intracompany transfers (upstreaming of funds to pay SIG debts) – Reinsurance pooling – Inflated/Unnecessary Salaries – Excessive travel/entertainment expenses – Excessive use of limousines and purchases of luxury automobiles – Excessive L2P2 attorney fees – Purchasing an employee's condominium and extending mortgages without Board approval ¶¶ 18-22, 31-40	(1) Bagdan: ¶¶73(a)-(d), 74(i)-(l) SRC: ¶¶ 7-35 SCI/Fla: ¶¶ 10-33 Beck State Rico: ¶¶ 32(A), 32(K)

[6] "Bagdan" denotes the New Jersey shareholders' action, which was taken over by Jules Bagdan, SIG's Trustee in Bankruptcy. "SRC" denotes the Florida Receiver's action brought on behalf of Southeastern Reinsurance. "SCI-Fla" denotes the Receiver's action brought on behalf of Southeastern Casualty of Florida. "Beck State RICO" denotes the state law RICO suit that Beck brought in 1989, which was dismissed.

(2) Fraudulent Financial Statement - Understating loss reserves and claims - Inflating assets - Financial statements submitted to Florida Insurance Regulators - Financial estimates given to First Fidelity Bank for $7.5 million loan ¶¶ 18-22, 61-73	(2) Bagdan: ¶¶ 74(f) & (l) SRC: ¶¶ 7-12 Beck State Rico: ¶¶ 32(a)(1)(g) 32(G), 36-38
(3) Extortion of Contractors - Contractors' payment of monitoring fees to CPC ¶¶ 23-30	(3) Bagdan: ¶74(b) Back State RICO: ¶32(C)
(4) Termination of Beck for Cause ¶¶ 43-60	(4) Beck State RICO: ¶¶ 19-32, 39-54

As the above chart illustrates, the parties with proper legal standing – SIG's Bankruptcy Trustee and the Insurance Subsidiaries' Florida Receiver – have already brought suit to vindicate the companies' rights regarding defendants' alleged "looting," mismanagement, fraudulent financial statements and "extortion" of contractors. Moreover, Beck himself has previously brought a RICO suit in Florida state court to complain about these same

wrongdoings and to seek damages as a terminated whistleblower. Beck simply does not have standing under RICO to sue for predicate acts practiced against – and injuring – those corporations.

Beck's Deposition Testimony

This case boils down to whether Beck has "standing" to assert RICO claims. Beck's own extensive deposition testimony confirms that all of his alleged RICO injuries derive entirely from SIG's demise, which he alleges resulted from a pattern of racketeering activity practiced upon SIG, its Subsidiaries, and other third parties such as contractors.

As stated above, Beck alleges four categories of damage arising from defendants' alleged RICO conduct:

(1) The loss of an unsecured loan to SIG of $150,000 (debenture bonds purchased in the August 1986 Private Placement)

(2) The loss of Stock Value, $828,234

(3) The loss of Employment, $1,368,741

(4) Guaranty of First Fidelity loan (unspecified damages)

(Exhibit B, ¶17).

Stock and Debenture Injuries

With respect to the loss of stock value and the $150,000 loan, clearly these "injuries" resulted from the demise of SIG, which Beck alleges resulted from the RICO predicate acts allegedly practiced upon the Insurance

Subsidiaries. Beck's loss of his indebtedness and stock value occurred because the companies went bankrupt and could not repay him. Beck agreed on numerous occasions that the alleged RICO predicate acts were intended to and did damage the Insurance Subsidiaries first, then their parent holding company, SIG, and also the contractors who were supposedly extorted, First Fidelity, and finally and only derivatively, shareholders and creditors such as Beck who lost the value of their investments/ loans when SIG went bankrupt. (Exhibit Q).

For example, Beck testified that the "looting" of Insurance Subsidiaries (defined by Beck himself as the mere "upstreaming" of the Insurance Subsidiaries' funds to pay SIG's legitimate debts), and the writing of high risk bonds, caused injury to SIG and the Insurance Subsidiaries:

Q. So the entity that was hurt by the upstreaming to enable SIG to pay its debts was the surety companies that upstreamed the money, correct? Yes or no?

A. No.

Q. It wasn't hurt?

A. It was hurt but that's not the only entities.

Q. I will give you a chance to finish. ***Was the surety company hurt?***

A. ***Yes.***

Q. ***How?***

A. ***Because it took out of the company policyholders surplus and unearned premium reserves out of the company illegally and***

made the companies unable to pay their debts.

Q. So the first instance or at least one instance, the surety company was hurt, correct?

A. Yes.

Q. And the fallout from that was that the entities or companies to whom those bonds were issued, if there was a default on those bonds, would not receive the proceeds from the bond; is that correct?

A. Yes.

Q. Was there any other hurt?

A. Yes. The regulators were hurt by receiving false information about that. The federal government, the local government, to whom the bonds were given didn't receive their claim payments on those bonds.

Q. The claimants were hurt and the regulators were hurt. Who else?

A. ***Also SIG was hurt by doing this. Because the value of those companies as going concerns was destroyed by the removal of the assets.***

* * *

Q. So who else then beside the claimant, possible claimants and the creditors of the surety companies were hurt as a result of monies going up to SIG?

A. ***The shareholders and the debenture holders of SIG.***

Q. ***That's because ultimately the surety company ceased doing business and were taken over by the regulators?***

A. ***That's right. Because the directors had improperly removed their assets.*** . . . And also because the directors of SIG and the insurance companies were the same, removed assets from the insurance companies improperly, that that caused SIG to fail.

* * *

Q. ***And are you saying that you, together with all the other debenture holders and shareholders was hurt because if the money was upstreamed and the surety company didn't have the money to pay its bills, it would go out of business and, therefore, your investment in SIG would be diminished to virtually zero?***

A. ***Yes.***

* * *

Q. ***You are saying that this harm that the shareholders and debenture holders suffered derived from the fact that the surety company was hurt when its coffers, its monies were upstreamed to SIG?***

A. The surety companies, there is three of them.

Q. Yes.

A. ***Yes, because it destroved the going concerns that SIG had to operate.***

(Exhibit R) (emphasis added).

On other occasions Beck testified about Contractors Performance Corporation ("CPC"), a SIG subsidiary that, for a fee, monitored the contractor's performance on construction jobs to prevent a default which would trigger the surety company's bond obligation. Beck alleges that the contractors were extorted, since SIG supposedly conditioned the bond's issuance on the contractor's payment of the CPC fee, which Beck testified was an illegally-disguised insurance premium. It is Beck's belief that because SIG charged these additional fees, it was more willing to issue high-risk bonds to poor-quality contractors. Beck testified that this created a cash-flow mentality at SIG, with SIG issuing high-risk bonds by demanding illegal fees from contractors, thus generating premiums without regard for possible future claims. (Exhibit S). But, most importantly, Beck also testified that the injury from these activities was suffered directly by SIG, its Insurance Subsidiaries and the contractors who paid the monitoring fees:

Q. As a result of that, there were a lot of claims made against the surety companies on account of these bonds issued to contractors who as you said shouldn't have received them, is that correct?

A. Yes.

Q. And it was as a result of the claims that were made that the surety companies found themselves in a very difficult economic position as time went on; is that correct?

A. I think that's one of the reasons why.

Q. I can only deal with one at a time. As a result of these claims, the assets of the

surety companies, their capital was being eroded, correct?

A. Yes.

Q. That's because they had to pay money on this account of bonds issued to contractors whom, as you say, shouldn't have received the bonds, correct?

A. Yes.

Q. So that ultimately as a result of issuing bonds to questionable contractors, poor quality contractors, the capital of the various surety companies was eroded or almost depleted, correct?

A. Is there a point in time?

Q. Eventually. Later on.

A. Yes.

Q. *So that the entity that was hurt in the first instance was the surety companies: is that correct? In the first instance?*

A. *Yes.*

Q. . . . The entity that was directly injured as a result of the slippery slope procedure, as you describe it, was the surety company, correct?

A. Yes.

Q. *But as you say as a result of the direct injury to the surety company, the holding company, SIG, who owned the stock in the surety company, suffered secondarily; is that correct?*

A. *Yes.*

Q. And that's because the value of its investment in the surety company declined or at one point it became almost worthless, correct?

A. Yes, that's part of it.

Q. *And thirdly, the entities, the group that suffered tertiarally* [sic] *were the shareholders and debenture holders of SIG because of their investment in SIG became virtually worthless; is that correct?*

A. *Yes.*

Q. *And you were one of those shareholder debenture holders, correct?*

A. *Yes.*

Q. *So as a result of this slippery slope procedure that you have described in detail, when all the string is running out, you, togther with all the other shareholders lost money, correct? Shareholders and debenture holders lost money, correct?*

A. *Yes.*

(Exhibit T) (emphasis added).

In sum, Beck conceded that he and all the other shareholders and debenture holders lost the value of their investment when, because of the alleged RICO predicate acts targeted at the Insurance Subsidiaries "SIG went out of business." (Exhibit U); *see also* (Exhibit V). Beck has no RICO standing to sue for the indirect losses allegedly sustained by him and SIG's other shareholders and creditors. Thus, Beck's own testimony confirms that he lost the

value of his stock and his unsecured loan (debentures) only because the defendants' alleged RICO predicate acts were targeted at and injured third parties such as the Insurance Subsidiaries, SIG, and contractors, whose injuries derivatively harmed Beck. Thus, Beck cannot establish direct injury, and he does not have RICO standing.

Termination of Beck's Employment

The next category of Beck's alleged damages is the loss of employment. Beck contends that the defendants fraudulently created causes for Beck's termination in order to substantiate a termination for cause and to shift the blame for defendants' allegedly illegal conduct. Beck alleges that this termination was carried out because he refused to participate in these activities and because he posed a threat as a whistleblower. (Exhibit A, Exhibit B, ¶ 2(a)(v).).

Assuming these allegations as true, they still do not give rise to a RICO claim, because all of the predicate acts alleged in Beck's Complaint were directed at and injured third parties. (Exhibit A, ¶¶ 79-128). As set forth in the Memorandum of Law, the Eleventh Circuit law clearly precludes such a claim.

The First Fidelity Guaranty

With respect to the First Fidelity Guaranty, Beck's testimony is equally damaging to his own case. On December 30, 1987, First Fidelity Bank extended SIG a $7.5 million loan and required the senior officers and directors – including Beck and the Bellezza Group – to

sign personal Guaranties. SIG defaulted on the loan, and on November 8, 1989 First Fidelity filed a lawsuit in New Jersey State Superior Court against SIG and the guarantors to recover the $3.3 million outstanding balance. Beck filed a Third-Party Complaint against Lampf, Lipkind, Prupis & Petigrow ("L2P2") for legal malpractice claiming that the law firm misadvised him as to his liability on the Guaranty.[7] (Exhibit W).

On June 29, 1990, the New Jersey Superior Court entered judgment against the Guarantors for the $3.3 million principal. (Exhibit X). The Bellezza Group paid the judgment and took an assignment of the judgment (Exhibit Y), and then they sued L2P2 for legal malpractice arising out of L2P2 advising the directors' to sign the guaranties. The Bellezza Group recovered a substantial sum from L2P2 in a settlement and assigned the First Fidelity judgment to L2P2. (Exhibit Z).

Beck continued to prosecute his Third-Party Complaint against L2P2, however, seeking to recover his attorneys fees incurred in defense of the First Fidelity Guaranty action.[8] Beck and L2P2 settled, with Beck receiving $425,000, which was virtually all of his First Fidelity attorneys fees, and the First Fidelity judgment

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[7] At all relevant times during SIG's existence, L2P2 was SIG's legal counsel, and three of Lampf Lipkind's principals – William Lipkind, Neil Prupis and Richard Petigrow – were SIG officers and directors.

[8] Beck argued in that action that L2P2's malpractice was the sole cause of his execution of the First Fidelity Guaranty. (Exhibit 2). Now, in a convenient flip-flop, he has the audacity to argue here that the cause of his Guaranty was the Bellezza Group's and other defendants' misrepresentations!

against Beck was extinguished without him paying anything towards it. (Exhibit 1). Thus, Beck's suit against L2P2 sought the very same attorneys fees sought here as RICO damages from the Guaranty. Thus, because Beck recovered those fees in the L2P2 settlement, he has sustained no RICO damages. In any event, the law is clear that he cannot recover attorneys fees as part of RICO damages.

In any event, Beck's testimony confirms that he was not deceived by defendants when signing his Guaranty. Beck alleges that he would not have executed the Guaranty had he known of the true nature of transactions involving a contractor called Chief Structures ("Chief"). The Insurance Subsidiaries had issued surety bonds to Chief on projects that Chief was having trouble completing. SIG or the Insurance Subsidiaries loaned money to Chief to help pay its vendors on those bonded jobs. Beck claims these loans should have been treated as claims on the Insurance Subsidiaries' financial statements. He says he was unaware of the loan transactions and had he known of them, he never would have guaranteed the First Fidelity loan. (Exhibit 3).

But Beck's extensive deposition testimony confirms that he had full knowledge of the Chief situation. First, Beck concedes, as he must, that he was SIG's President and was responsible for financial matters, including submitting financial statements to regulators. (Exhibit 4). Second, Beck also stated that he was on the management Claims Committee that assessed surety bond claims and

established "loss reserves" on SIG's books.[9] He testified that he was aware when he signed the Guaranty that approximately $2 million was loaned by SIG to Chief and other contractors. (Exhibit 5). Beck testified that before signing the Guaranty, he was fully aware of the Chief loans, having actually signed checks totalling over $321,000 where Chief was the payee. (Exhibit 6). He thus was forced to concede he was aware ***prior to signing the Guaranty*** that the reason SIG was making advances to Chief was to help Chief complete its construction projects and pay its vendors. (Exhibit 7). Also, Beck admitted that Neil Prupis told him that the Chief advances would continue to be made in the future. (Exhibit 8).

Beck also admitted that, despite being told by Richard Petigrow that the Chief advances were short-term "workout" loans, Beck nonetheless still ***believed*** that they were claims or losses. (Exhibit 9).

Lest there be any doubt, the transactions with Chief were reviewed by Deloitte, Haskins & Sells ("DHS"), SIG's auditors, and properly classified as claims on both the audited financial statements and the statutory financial statements filed with the Florida Department of Insurance. As Mr. Beck testified, he was relying on DHS to properly account for the Chief situation – which they did. (Exhibit 11).

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[9] A "loss reserve" is an expense/liability item on an income statement. When a claim is made on a surety bond, the insurance company establishes a reserve for potential payouts on the bond. (Exhibit 10).

In short, Beck admitted in his deposition that he signed the $7.5 million First Fidelity Guaranty despite having all of this knowledge of the Chief transactions and despite knowing that the advances would continue. (Exhibit 12).

Respectfully submitted,

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BY: /s/ Illegible
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DATED: March 29, 1995
1256/YW.MMR

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 91-8121-CIV-ROETTGER

ROBERT A. BECK, II,

Plaintiff,

v.

ROBERT M. PRUPIS, et al.

Defendants.
_____/

MEMORANDUM OF LAW OF [sic] IN SUPPORT OF DEFENDANTS' THE BELLEZZA GROUP'S MOTION FOR SUMMARY JUDGMENT

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PRELIMINARY STATEMENT

The importance of resolving this motion prior to trial cannot be understated. The parties have pre-marked approximately 5,000 trial exhibits, have listed more than 30 trial witnesses, and have estimated a 6 to 8 week trial. Thus, before the court's time is wasted, and now that discovery is completed, the threshold issue of standing can be decided as a matter of law. Pure legal standing questions are not jury issues, and this case can now be decided on summary judgment.

Plaintiff alleges that the defendants conducted the affairs of SIG through a pattern of racketeering activity. Plaintiff, a shareholder and creditor of SIG, alleges he lost the value of his stock and was not repaid his indebtedness because defendants' alleged RICO conduct caused the demise of SIG. The law is clear, however, that a shareholder/creditor does not have RICO standing to sue for such derivative losses.

The only plaintiffs having RICO standing in such a situation are the corporation, its shareholders **suing derivatively**, or as here, where the corporation is defunct, its Bankruptcy Trustee. Indeed, the very claims brought by plaintiff here have been the subject of suits brought by SIG's Bankruptcy Trustee and the Receiver appointed by the Florida Department of Insurance. The Trustee's RICO complaint, which made the same allegations as Beck makes here, were dismissed, and the Receiver's suit was settled. Moreover, Mr. Beck already had his day in court, having previously filed a RICO suit in Florida state court making the same RICO allegations as in this suit. That suit was dismissed for lack of standing.

LEGAL ARGUMENT

POINT I

PLAINTIFF BECK DOES NOT HAVE STANDING TO SUE UNDER RICO, BECAUSE HIS INJURIES ARE ENTIRELY DERIVATIVE AND THEREFORE HE CANNOT ESTABLISH PROXIMATE CAUSE

A. Plaintiff Beck Lacks Standing as a Shareholder/Creditor.

The Eleventh Circuit follows a very strict test for determining whether plaintiffs have standing to sue for RICO treble damages, holding that the plaintiff's injury must flow *directly* from the predicate acts complained of and cannot, as claimed by plaintiff here, merely derive from the general demise of the corporation. *Pelletier v. Zweifel*, 921 F.2d 1465, 1499-1500 (11th Cir. 1991); *Morast v. Lance*, 807 F.2d 926, 933 (11th Cir. 1987); *Warner v. Alexander Grant & Co.*, 828 F.2d 1528, 1530 (11th Cir. 1987). Thus, as the United States Supreme Court recently held, where a RICO plaintiff complains of harm flowing merely from the "misfortunes visited upon a third person" (e.g., the demise of a corporation), the plaintiff stands at too remote a distance to recover. *Holmes v. Security Inv. Protection Corp.*, 112 S.Ct. 1311, 1318 (1992).

Dispositive of Beck's stock and debenture claims is the Eleventh Circuit's decision in *Pelletier v. Zweifel*, 921 F.2d 1465 (11th Cir. 1991). Plaintiff in *Pelletier* claimed that he lost the value of his investment in a corporation as a result of RICO predicate acts directed against the corporation that depleted its assets. The Eleventh Circuit affirmed a summary judgment in favor of defendants,

holding that the predicate acts were directed against the corporation and that plaintiff's injury was derivative of the direct harm suffered by the corporation. In so holding, the Eleventh Circuit adhered to the restrictive view that a plaintiff has RICO standing only if his injury flowed directly from the commission of the predicate acts. This means that when the alleged predicate act is mail or wire fraud – as it is in the Beck Complaint – the plaintiff must have been a target of the scheme to defraud and have relied to his detriment on misrepresentations made in furtherance of that scheme. *Pelletier v. Zweifel*, 921 F.2d at 1499; *O'Malley v. O'Neill*, 887 F.2d 1557, 1563 (11th Cir. 1989). The court in *Pelletier* concluded that the predicate acts complained of were practiced upon the corporation and that plaintiff, who lost his investment, had no RICO standing. *Pelletier*, 921 F.2d at 1499, 1506-10.

Pelletier is consistent with the conclusion reached in virtually every other Circuit Court, all of which hold that a shareholder who loses the value of his investment because of RICO predicate acts visited upon the corporation lacks the standing to sue for that loss. *See Warner v. Alexander Grant & Co.*, 828 F.2d 1528, 1530 (11th Cir. 1987),[1] and that a bankrupt corporation's creditors do not have RICO standing since their injuries are also derivative. *See, e.g., Manson v. Stacescu*, 11 F.3d 1127, 1130 (2d

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[1] *Accord Roeder v. Alpha Industries, Inc.*, 814 F.2d 22, 29 (1st Cir 1987); *Manson v. Stacescu*, 11 F.3d 1127, 1131 (2d Cir. 1993); *Whalen v. Carter*, 954 F.2d 1087, 1091 (5th Cir. 1992); *Warren v. Manufacturers Nat. Bk. of Detroit*, 759 F.2d 542, 544 (6th Cir. 1985); *Flynn v. Merrick*, 881 F.2d 446, 449-50 (7th Cir. 1989); *Brennan v. Chestnut*, 973 F.2d 644, 648 (8th Cir. 1992); *Sparling v. Hoffman Constr. Co*, 864 F.2d 635, 640 (9th Cir. 1988).

Cir. 1993). In shareholder cases it is the corporation (or shareholder suing derivatively) that has RICO standing, while in creditor cases the Bankruptcy Trustee or Insolvency Receiver has standing. *Whalen v. Carter*, 954 F.2d 1087, 1092 (5th Cir. 1992); *Mid-State Fertilizer Co. v. Exchange Nat. Bk.*, 877 F.2d 1333, 1335-36 (7th Cir. 1989); *Wooten v. Loshbough*, 951 F.2d 768, 770 (7th Cir. 1991); *In re Sunrise Securities Lit.*, 916 F.2d 874, 883, 888-89 (3rd Cir. 1990).

Beck's RICO CIS, as well as his deposition testimony, make it quite clear that the RICO predicate acts complained of were practiced upon SIG and its Insurance Subsidiaries – allegedly *directly* causing their demise and only indirectly or derivatively causing Mr. Beck's loss of his investment and $150,0000 indebtedness. Starting at page 13 of his CIS, Beck lists a series of alleged RICO predicates acts, every one of which was directed at SIG and other third parties, which Mr. Beck alleges caused the demise of SIG and its Insurance Subsidiaries. At pages 13 and 14 of his CIS, Beck complains about CPC (a SIG subsidiary), alleging it charged illegal fees to various contractors, including All Bright Electric Company, Shoemaker Plumbing, SCR Drywall, CIPI Corp., Agmilu & Co., Ahmad Construction Co. and others. Beck complains that CPC performed no services for those fees, or that the fees were disguised premiums for which SIG and its Insurance Subsidiaries had not received rate approval from the Florida Department of Insurance. Mr. Beck's testimony confirms that set forth in his RICO CIS, i.e., that the victims of the CPC activity were the *contractors* who paid the alleged improper fees and/or the *Insurance Subsidiaries* who purportedly wrote poor risk bonds for

these contractors. *A fortiori*, and as Mr. Beck was forced to concede, it was the *contractors* who suffered harm when allegedly compelled to pay improper fees, and the *Insurance Subsidiaries* who purportedly wrote poor quality bonds, leading to their demise. As Mr. Beck acknowledged, the loss of his $150,000 indebtedness and the loss of his stock was derivative of the demise of the Insurance Subsidiaries and SIG. *See* Statement of Material Facts at 11-14.

At pages 15 and 16 of his CIS, Beck complains of a transaction between Bellezza, JJW Construction Company (to whom the Insurance Subsidiaries issued bonds) and CPC. Succinctly stated, Beck complains that CPC and/or Bellezza received an $80,000 fee from JJW because either Bellezza or CPC personally issued guarantees to the Insurance Subsidiaries for surety bonds issued to JJW. *Significantly, the Insurance Subsidiaries did not sustain a loss on account of these bonds.* But Beck claims that the fees charged by CPC and/or Bellezza *to JJW* were improper. Assuming this to be so, obviously the entity against whom the harm was targeted was JJW, or, at worst, the Insurance Subsidiaries who Beck claims were put in a position of writing poor quality risks. Beck claims that the JJW transaction contributed to an atmosphere of loose underwriting practices which contributed to SIG's demise, as a result of which he lost his investment and $150,000 indebtedness. *See* Statement of Material Facts at 11-14.

The allegations at pages 17 through 19 of Beck's CIS also complain of excessive spending by SIG, and

particularly, Teresa Waldron and Neil and Ron Prupis.[2] As Beck acknowledged, the alleged excessive spending contributed to the demise of SIG and its subsidiaries – with the resulting loss of Beck's investment and indebtedness.

In paragraph 2(a)(iii) at page 3 of his CIS, Beck complains of the "looting" of SIG. He described the "looting" as the intracompany transfer of funds amongst SIG and its Insurance Subsidiaries. He complains that the Insurance Subsidiaries transferred or loaned monies to SIG to enable it to pay legitimate loans due to First Fidelity and SIG bond holders. He also complained that the loans from the Insurance Subsidiaries to SIG enabled it to repay $2 million of indebtedness SIG owed to Pension Plans in which defendants Bellezza and Olstein were pension trustees. These Pension Plans loaned SIG $2 million for the use by the Insurance Subsidiaries. Mr. Beck contends that the intracompany transfer of funds by the Insurance Subsidiaries to SIG to repay these legitimate debts denuded the Insurance Subsidiaries of monies to pay other creditors or bond obligees.

While Mr. Beck can cite no criminal statute purportedly violated by the intracompany transfers, nevertheless, the parties injured by virtue of those transfers were the Insurance Subsidiaries. Mr. Beck conceded at his

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[2] At page 18, Beck complains that, "In 1987 and until May of 1988, unnecessary limousine reservations were made via telephone calls from Florida for SIG personal traveling to New Jersey. Teresa Waldron, acting [sic] the direction of N. Prupis and R. Prupis, made at least one of these reservations with Livingston Five Star Limousine."

deposition that by transferring the monies to SIG, those Insurance Subsidiaries were deprived of needed funds – supposedly leading to their demise. Beck acknowledged that the loss of his investment in SIG as well as his $150,000 indebtedness derived from the demise of SIG and its Insurance Subsidiaries. *See* Statement of Material Facts at 9-11. Thus, even if the intracompany transfers were RICO predicate acts (which they are not), then the targeted victims were SIG and its Insurance Subsidiaries whose assets were allegedly "looted," and Mr. Beck's harm merely derived from their demise. And, indeed, SIG's Bankruptcy Trustee and the Insurance Subsidiaries' Receiver previously filed suits alleging the very same "looting" and mismanagement that Beck claims here. The Receiver's claims were settled by the defendants, with the settlement proceeds being held for the benefit of SIG's creditors, shareholders, and bond holders, of which Mr. Beck is one.

These allegations having already been the subject of suits brought by SIG's Bankruptcy Trustee and the Insurance Subsidiaries' Receiver, Beck cannot be singled out as having RICO standing for those same claims. This result is consistent not only with the United States Supreme Court holding in *Holmes*, 112 S. Ct. at 1321 (indirectly injured creditor does not have RICO standing, since suit could be an attempt to circumvent the relative priority its claim would have in directly injured corporation's liquidation proceedings), but also with virtually every other Circuit court which holds that individual shareholders/creditors lack standing for such claims. *See Mid-State Fertilizer*, 877 F.2d 1336 (7th Cir. 1989); *Manson v.*

Stacescu, 11 F.3d 1127, 1132 (2d Cir. 1993); *Rand v. Anaconda-Ericsson*, 794 F.2d 843, 849 (2d Cir. 1986). To permit Beck to recover for the injuries that were the subject of the Florida Receiver's suit for which Defendants made a substantial payment, and for which Mr. Beck is a potential beneficiary, would amount to "double counting" of damages. *Mid-State Fertilizer*, 877 F.2d at 1335-36.

Any claim by Mr. Beck that he suffered harm different than that sustained by the general populace of the shareholders and creditors of SIG and Insurance Subsidiaries would be disingenuous. Mr. Beck, like the other SIG shareholders, lost the value of his investment. SIG's Bankruptcy Trustee brought the same RICO claims on behalf of all SIG shareholders as Mr. Beck brings here. It was the Bankruptcy Trustee who had the standing since he stands in the shoes of the victim of the alleged RICO predicate acts, i.e., SIG. Mr. Beck has no individual standing for these claims. In instances where individual RICO claims are asserted, the courts will look at state law to determine whether the alleged injury is derivative or direct. *See e.g., Crocker v. FDIC*, 826 F.2d 347, 349 (5th Cir. 1987); *Flynn v. Merrick*, 881 F.2d 446, 449 (7th Cir. 1989). If the damages are derivative, the case must be dismissed. Florida law is quite clear that where acts of corporate directors cause the company's demise, rendering a plaintiff's investment worthless, an individual shareholder lacks standing. The claim can only be brought derivatively by the corporation or its bankruptcy trustee (or in this instance its Insurance Receiver). *See Alario v. Miller*, 354 So.2d 925, 926 (Fla. App. 1978).

Beck may attempt to argue that he was fraudulently induced to purchase the stock/debenture units in August

1986. In deposition, he testified that he was induced to buy the units by defendants' representations in the Private Placement Memorandum that he was SIG's CEO and that SIG's business focus was reinsurance; whereas after the private offering Ronald Prupis replaced him as CEO and changed the focus to direct writing of surety bonds. (Exhibit 13). These assertions are without merit, both legally and procedurally. Firstly, any new claim that he was misled by the Private Placement Memorandum is time-barred. The statute of limitations for such claims is one year from the date of discovery of the alleged fraud. 15 U.S.C. § 77m. Mr. Beck knew he was not CEO when, in July 1986, before he purchased his shares and $150,000 debentures, he signed an employment contract which gave him the title of President, not CEO. Moreover, he knew within seven days of the Offering that Ron Prupis was replacing him as CEO. *See* Exhibit 14, Vol. V, 58-60. It is simply too late now to concoct any new claims, as the District Court of New Jersey held in 1990 when it *dismissed* the shareholders' securities and RICO claims on statute of limitations grounds. *See* Exhibit K at 28-49, 54-62.

Moreover, as a procedural matter, neither Beck's Complaint nor his CIS alleged that he was fraudulently induced by the Private Placement Memorandum. He alleges only that he was fraudulently induced by a promise of continued employment *as President* (not as CEO), but that defendants had supposedly already hatched a scheme to terminate him. Exhibit B, ¶2(a)(vii); Exhibit A, ¶¶43-60. The Bellezza Group relied upon the Complaint and CIS in conducting discovery. Therefore, Beck should not be permitted, in a desperate effort to manufacture

RICO standing, to expand upon the allegations contained in his Complaint and CIS.

In sum, Beck does not have standing to sue for the lost value of his stock or for the debentures. *See National Enterprise v. Mellon Fin. Services*, 847 F.2d 254 (5th Cir. 1988) (creditor did not have RICO standing since inability to collect debt was caused by corporation's bankruptcy, not by predicate acts that depleted corporate assets); *Manson v. Stacescu*, 11 F.3d at 1130 (2d Cir. 1993) (obligors on $450,000 corporate loan did not have RICO standing); *Whalen v. Carter*, 954 F.2d at 1092-94 (debenture holders had no RICO standing where fraud devalued the corporation generally); *Mid-State Fertilizer*, 877 F.2d at 1335-36 (guarantors of bankrupt corporation did not have RICO standing); *Crocker v. FDIC*, 826 F.2d 347, 350 (5th Cir. 1987) (shareholders did not have RICO standing where diminution in stock value occurred because of mismanagement); *Leach v. FDIC*, 860 F.2d 1266, 1273-74 (5th Cir. 1988) (same).

B. Plaintiff Beck Lacks Standing Regarding the Guaranty.

Beck also lacks RICO standing to sue for damages resulting from his execution of the $7.5 million First Fidelity Guaranty because he sustained no injury to "business or property" within the purview of 18 U.S.C. § 1964(c).

Assuming *arguendo* that Beck can show that he was fraudulently induced to sign the Guaranty, it is undisputed that he suffered no damages. As set forth in the

Statement of Material Facts, Beck never paid anything to First Fidelity on account of his Guaranty. Moreover, he recovered $425,000 of legal fees he expended in defending the First Fidelity lawsuit brought against him on the Guaranty. He recovered that sum in a lawsuit he brought against L2P2, claiming their negligence led him to sign the guaranty. These are the same legal fees he claims as RICO damages here. Therefore, Beck has not sustained any injury to "business or property" by reason of the supposed RICO violation. *Taffet v. Southern Co.*, 967 F.2d 1483, 1487-88 (11th Cir. 1992); *E.T. Barwick Indus. v. Walter E. Heller & Co.*, 692 F. Supp. 1331, 1352-53 (N.D. Ga. 1987), *aff'd*, 891 F.2d 906 (11th Cir. 1989); *see also Arabian Amer. Oil Co. v. Scarfone*, 713 F. Supp. 1420, 1423 (M.D. Fla. 1989) (plaintiff suffered no RICO damages where he was fully reimbursed by third party); *Commercial Union Assur. Co. v. Milken*, 17 F.3d 608, 612 (2d Cir. 1994) (plaintiffs could not maintain RICO action where they received full amount of damages in settlement).

Even if Beck now claims that his legal fees in defending the First Fidelity suit exceeded the $425,000 recovered from L2P2, those attorneys' fees simply are not a compensable element of RICO damages. The law in this District is clear that legal fees incurred to prosecute or defend a claim cannot be an element of RICO damages. *Local 355 v. Pier 66 Co.*, 599 F. Supp. 761, 765 (S.D. Fla. 1984); *accord Doe v. Roe*, 756 F. Supp. 353, 360 n.11 (N.D. Ill. 1991); *Capasso v. Cigna Ins. Co.*, 765 F. Supp. 839, 842 (S.D.N.Y. 1991). In *Local 355*, plaintiff sought as RICO damages the legal fees it was forced to expend in a National Labor Relations Board proceeding occasioned by defendant's improper decertification of the plaintiff's labor union. In

granting summary judgment to defendant, the District Court held that legal fees were not compensable RICO damages. For that reason alone, Beck's claim for legal fees resulting from the First Fidelity transaction over and above the $425,000 he already recovered must be dismissed.

If that was not enough, the alleged acts of wire and mail fraud connected to the First Fidelity Guaranty do not give rise to any claim against the Bellezza Group. In his Complaint, Beck makes reference to three alleged acts of wire fraud, three telephone calls made in December 1987. (Exhibit A, ¶¶ 108, 109, 111). These alleged predicate acts, however, cannot give rise to liability on the part of the Bellezza Group, since none of the phone calls involved Messrs. Bellezza, Olstein, Paulus or Sabato.[3] The phone calls referenced in Paragraphs 108 and 109 – where plaintiff alleges Neil Prupis and Lynn Day (SIG's treasurer) had conversations about allegedly false financial estimates – are unavailing for another reason: Beck was not the target of the alleged fraud. Beck testified that Neil Prupis gave Day false financial information and asked him to prepare a projection of SIG's future financial performance from 1987 through 1991, and that this projection was given to and relied upon ***by First Fidelity*** in extending SIG the $7.5 million loan. Beck himself never received these projections before signing the Guaranty. (Exhibit 15).

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[3] Beck testified that he does not know anything about the phone call referenced in Paragraph 111 (**Beck Dep. Vol. 9, p. 146**). Therefore, he cannot rely on Paragraph 111.

However, "when the alleged predicate act is mail or wire fraud, the ***plaintiff must have been a target of the scheme to defraud*** and must have relied to his detriment on misrepresentations made in furtherance of that scheme." *Pelletier v. Zweifel*, 921 F.2d 1465, 1499-1500 (11th Cir. 1991) (emphasis added). Here, Beck merely contends that ***First Fidelity*** was the target of that scheme to defraud and that ***First Fidelity*** relied upon the financial projection in issuing the loan. Beck merely alleges that he was injured as a secondary consequence of SIG failing to repay the loan. (Exhibit 16). Thus, again, Beck has failed to prove that he was injured "by reason of" any predicate acts. *O'Malley v. O'Neill*, 887 F.2d 1557, 1563 (11th Cir. 1989) (terminated whistleblower lacked RICO standing where target of mail fraud scheme was government and other third parties); *Kingston Square Tenants Ass'n v. Tuskegee Gardens*, 792 F. Supp. 1566, 1578 (S.D. Fla. 1992) (public housing tenants lacked RICO standing where target of fraud was HUD); *see also Mandelovitz v. Vosicky*, 40 F.3d 182, 186-87 (7th Cir. 1994).

Beck also alleges that he would not have signed the Guaranty had he known of the Chief Structures loan situation. But as Beck conceded in his depositions, he had full knowledge that loans were being made to Chief to assist it in completing construction projects and that such advances would continue in the future. He signed checks for loans totalling $321,000 for the benefit of Chief. He knew that over $2 million was owed by Chief to SIG or its Insurance Subsidiaries. He also knew that the repayment of those loans were questionable and that they might turn into claims. He nevertheless signed the Guaranty (against which he has never paid a penny). *See* Statement of

Material Facts at 15-18. Beck can hardly argue, with a straight face, that he did not know of the Chief Structure situation or its potential impact when he signed the Guaranty.

Therefore, as a matter of law, Beck did not rely on any representations regarding Chief, and his lack of reliance is another independent reason why his Guaranty claim must be dismissed. The plaintiff's lack of reliance was the very reason the Eleventh Circuit granted summary judgment to the defendants in *Pelletier v. Zweifel*, 921 F.2d at 1506-10. *Accord Blount Fin. Servs. v. Walter E. Heller & Co.*, 819 F.2d 151, 153 (6th Cir. 1987); *Grantham & Mann, Inc., v. American Safety Prods., Inc.*, 831 F.2d 596, 606 (6th Cir. 1987); *Mid-State Fertilizer v. Exchange Nat. Bk.*, 877 F.2d 1333, 1337 (7th Cir. 1989 [sic]; *County of Suffolk v. Long Island Lighting Co.*, 907 F.2d 1295, 1312 (2d Cir. 1990); *Ferndale Corp. v. Schulman Urban Dev. Assocs.*, 758 F. Supp. 861, 866 (S.D.N.Y. 1990); *North Amer. Fin. Group v. S.M.R. Enter., Inc.*, 583 F. Supp. 691, 698 (N.D. Ill. 1984); *Puller Mortgage Assocs. v. Keegan*, 829 F. Supp. 1507, 1521-23 (S.D. Ind. 1993); *Langley v. American Bk. of Wisconsin*, 738 F. Supp. 1232, 1235 (E.D. Wis. 1990).

C. Plaintiff Beck Lacks Standing as a Whistleblower.

Plaintiff Beck alleges that defendants hatched a scheme in 1986 to create fraudulent causes for a termination that occurred *in 1988*, to brand him as a scapegoat for their alleged illegal activities, and to prevent him from blowing the whistle on their alleged illegal activities. (Exhibit A, ¶¶ 43-60; Exhibit B, ¶ 4(a)(i).). Even if these

allegations are true, however, Beck does not have RICO standing.

It is well established in the Eleventh Circuit that employees who were terminated for either refusing to participate in an illegal RICO scheme, or for reporting or threatening to report defendants' alleged racketeering to the relevant authorities, *do not* have standing to sue under RICO for damages flowing from their discharge. The court reasons that the injury was not caused by the predicate acts and thus does not satisfy Section 1964(c)'s causation requirement. *O'Malley v. O'Neill*, 887 F.2d 1557, 1561 (11th Cir. 1989); *Morast v. Lance*, 807 F.2d 926, 933 (11th Cir. 1987); *Schenk v. Southeast Banking Corp.*, 725 F. Supp. 1231 (S.D.Fla. 1989). Furthermore, this predicate act requirement applies in Section 1962(d) conspiracy claims as well as Section 1962(c) substantive claims. *Morast*, 807 F.2d at 933; *Bowman v. Western Auto Supply Co.*, 985 F.2d 383, 388 (8th Cir. 1993)

What makes Beck's RICO claim for whistleblower damages even more egregious is the fact that he previously filed an identical RICO complaint against these very same defendants in the Florida state court which dismissed for lack of standing. How many times do these defendants have to defend against the same claims?

POINT II

PLAINTIFF BECK'S ENTIRE COMPLAINT MUST BE DISMISSED BASED ON THE DOCTRINES OF RES JUDICATA AND COLLATERAL ESTOPPEL.

Robert A. Beck II has made it his life's sole purpose to file lawsuits against the former officers and directors of

SIG. He has testified that he spends the equivalent of a full-time job – five or six days a week, eight hours a day – working on the numerous lawsuits he has brought against these defendants. (Exhibit 17). He has filed suit in three different forums in an effort to find the right law and judge to adjudicate his treble damage claims. This is exactly the type of forum-shopping and waste of judicial resources that the doctrines of *res judicata* and collateral estoppel seeks to prevent.

Under 28 U.S.C. § 1738, a federal court must give a state judgment the same preclusive effect that the state court would give it. *Marese v. American Academy of Orthopaedic Surgeons,* 470 U.S. 373 (1985); *Stockton v. Lansiquot,* 838 F.2d 1545 (11th Cir.), *cert. denied,* 488 U.S. 891 (1988). Florida state law recognizes that *res judicata* puts at rest every justiciable, as well as every actually adjudicated, issue once there has been a judgment on the merits. *Gordon v. Gordon,* 59 So.2d 40, 43 (Fla. 1952).

Collateral estoppel or issue preclusion bars relitigation of matters that were actually litigated and decided in a prior suit. *Res judicata* or claim preclusion bars litigation of matters that could have been litigated in a prior suit, but were not. *Pelletier v. Sweifel,* 921 F.2d 1465, 1501 (11th Cir. 1991), *citing Migra v. Warren City School Dist.,* 465 U.S. 75, 77 n.1 (1984). Here, Beck's substantive whistleblower RICO claims that were dismissed in the Florida action are barred by collateral estoppel, since they were actually litigated and decided. (Exhibit H).

Moreover, any other claims that could have been asserted in the Florida state case – including RICO conspiracy claims and common law claims – are barred by *res*

judicata. The Eleventh Circuit has held that if a case arises out of "same nucleus of operative fact" or the same "series of transactions" as a previous lawsuit, then the two cases are the same "claim" for purposes of *res judicata. Pelletier,* 921 F.2d at 1502; *Wallis v. Justice Oaks II, Ltd.,* 898 F.2d 1544, 1551 (11th Cir.), *cert. denied,* 111 S.Ct. 387 (1990). Here, there can be no doubt that Beck's Florida complaint and the instant federal complaint arise out of the same "nucleus" of facts. In fact, the complaints are fairly identical.

For instance, in both actions Beck alleged that the Bellezza Group, along with the other defendants, fraudulently created causes for terminating his employment because of his refusal to participate in the alleged illegal activity and because he posed a threat as a whistleblower. In both suits Beck alleged that he was fraudulently induced to guarantee a $7.5 million loan to First Fidelity. The alleged illegal activities in which Beck refused to participate are also the same in both complaints, such as alleged extortion of contractors who were forced to pay fees to CPC, abuses by the compensation committee in permitting payment of inflated salaries and benefits to cronies and family members, and payment of excessive travel and entertainment expenses for SIG officers and directors and their spouses. Thus, it is clear that the allegations in both actions are practically identical and against the same parties.

Finally, to the extent certain of Beck's damage claims – such as the loss of value of stock and the unsecured debenture loan – were not specifically pleaded in the Florida action, they are still barred because the factual predicate for such claims existed when the Florida action

was still pending, and perhaps even before Beck filed it. The Florida Receiver took over SCI-Fla and SRC in August 1989 for the purpose of liquidation, so Beck could have asserted shareholder/creditor claims at that time. In any event, Beck testified that the value of his stock and debentures was decreasing ***while SIG was still a going concern***, as its earnings were decreasing. (Exhibit 18). Thus, Beck's stock/debenture claims ripened in 1987 and 1988, well before he even filed the Florida Complaint. Therefore, Beck's instant claims are barred by *res judicata*. *Pelletier*, 921 F.2d at 1500-02 (granting summary judgment dismissing plaintiff's RICO Complaint on res judicata).

Moreover, Beck could have raised his federal RICO claims in Florida state court and did not. *Tafflin v. Levitt*, 493 U.S. 455 (1990). Having opted to forego his federal RICO claims in his state court action, he cannot now raise those claims which should have been brought in state court. *Martell v. Martell*, 887 F.2d 1322, 1326 (7th Cir. 1989); *Carman v. First Nat. Bank of Louisville*, 642 F. Supp. 862, 864 (W.D. Ky. 1986).

Therefore, Beck's entire Complaint is barred by the doctrines of *res judicata* and collateral estoppel.

POINT III

BECK'S COMMON LAW CLAIMS MUST ALSO BE DISMISSED

Counts V through X of Beck's Complaint allege common law fraud and negligence regarding the same damages alleged in the RICO counts. These common law claims should be dismissed for the same reasons Beck lacks standing under RICO. Moreover, if the RICO claims

are dismissed, the Court will lack subject matter jurisdiction over the common law claims and should decline to exercise supplemental jurisdiction over those claims. 28 U.S.C. § 1367(c)(3).

CONCLUSION

For the foregoing reasons, Summary Judgment should be entered in favor of the Bellezza Group, and Plaintiff Robert A. Beck II's Complaint should be dismissed with prejudice.

Respectfully submitted,

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dated: 3/29/95
1089/U9.RMD

Due to their volume, the Exhibits to the Memorandum of Law in Support of Defendants' the Bellezza Group's Motion for Summary Judgment, which are part of the record below (R 137), are not duplicated in this Joint Appendix